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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~429.~~ ~~1116~~ 15
No 15 this term

THE NATIONAL BANK OF COMMERCE OF BOSTON, STATE OF MASSACHUSETTS, PLAINTIFF IN ERROR,

vs.

THE MERCHANTS' NATIONAL BANK OF MEMPHIS, STATE OF TENNESSEE.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

FILED APRIL 26, 1873.

9 L.R.C.P. 470
Cole v Northwestern Bank

SUPREME COURT OF THE UNITED STATES.

No. 429.

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1 UNITED STATES, *ss :*

The President of the United States to the judges of the circuit court holden in and for the district of Massachusetts, greeting:

Because that, in the record and process and also in the rendering of judgment in a suit before you, or some of you, between The Merchants' National Bank of Memphis, Tennessee, a banking corporation established by law and doing business at Memphis, in the State of Tennessee, plaintiff, and The National Bank of Commerce, of Boston, Massachusetts, a banking corporation established by law and doing business at Boston, in the district of Massachusetts, defendant, in a plea of the case, a manifest error has intervened, to the great damage of the said National Bank of Commerce of Boston, as in its complaint has been stated; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded, that, if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the Chief Justice and the associate justices of the Supreme Court of the United States, on the second Monday of October next, at Washington, being the present seat of the National Government, that, the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the honorable Salmon P. Chase, esquire, Chief Justice of the said Supreme Court, at Washington aforesaid, this eleventh day of March, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States the ninety-seventh.

JOHN G. STETSON, *Clerk.*

Allowed by—

G. F. SHEPLEY,
U. S. Circuit Judge First Judicial Circuit.

UNITED STATES OF AMERICA,
Circuit Court of the United States, Massachusetts District, ss :

And now here the judges of the circuit court of the United States in and for the said district make return of this writ, by annexing hereto and sending herewith, under the seal of the said circuit court, a true and attested copy of the record and process in the suit within mentioned and of all proceedings therein.

In testimony whereof I, John G. Stetson, clerk of said circuit court of the United States within and for the district of Massachusetts, have hereunto set my hand and the seal of said court this eleventh day of March, A. D. 1873.

[SEAL.] JOHN G. STETSON, *Clerk.*

1*a* The United States of America to the Merchants' National Bank of Memphis, Tennessee, a banking corporation established by law, and doing business at Memphis, in the State of Tennessee, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the first circuit and district of Massachusetts, wherein the National Bank of Commerce of

Boston, Massachusetts, a banking corporation established by law, and doing business at Boston, in the district of Massachusetts, is plaintiff in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable George F. Shepley, U. S. circuit judge, first judicial circuit, this eleventh day of March, in the year of our Lord one thousand eight hundred and seventy-three.

G. F. SHEPLEY,
U. S. Circuit Judge First Judicial Circuit.

UNITED STATES OF AMERICA,
Massachusetts District, ss:

Due, sufficient, and legal service of the within citation is hereby acknowledged.

SWEETSER & GARDNER,
Attorneys for Plaintiffs.

1*b* UNITED STATES OF AMERICA,
Massachusetts District, ss:

At a circuit court of the United States for the first circuit, begun and holden at Boston, within and for the district of Massachusetts, on Tuesday, the fifteenth day of October, in the year of our Lord one thousand eight hundred and seventy-two.

Before the honorable George F. Shepley, circuit judge.

THE MERCHANTS' NATIONAL BANK OF MEMphis, Tennessee, a banking corporation established by law and doing business at Memphis, in the State of Tennessee, plaintiff,
v.
THE NATIONAL BANK OF COMMERCE OF BOSTON, Massachusetts, a banking corporation established by law and doing business at Boston, in our district of Massachusetts, defendant.

In a plea of the case, for that the said defendant, on the day of the purchase of this writ, being indebted to the plaintiffs in fifty
2 thousand dollars for goods sold and delivered by the plaintiffs to the defendants; and in the same amount for work done, and materials for the same, provided by the plaintiffs for the defendants, at their request; and in the same amount for money lent by the plaintiffs to the defendants; and in the same amount for money received by the defendants to the use of the plaintiffs; and in the same amount for money paid by the plaintiffs, for the use of the defendants, at their request; and in the same amount for money due from the defendants to the plaintiffs for interest of money before then due and owing from the defendants to the plaintiffs, and by the plaintiffs forborne to the defendant, at the defendant' request, for a long time before then elapsed; and in the further sum of dollars and cents, according to the account annexed; in consideration thereof promised to pay the same amount to the plaintiff on demand, yet they have not paid the same.

Also, for that one James H. Mulford, on the second day of June, 1870,

at Memphis, in the State of Tennessee, being the owner of one hundred and fourteen bales of cotton, of the value of thirteen thousand
3 dollars, each bale being marked $\frac{G. A. T.}{M}$, delivered the same to an express company called the Great Western Despatch, for shipment to Boston, in the State of Massachusetts, and then and there received from said despatch a receipt or bill of lading in writing, signed by the agent of said despatch, dated at said Memphis, June 2nd, 1870, for said 114 bales of cotton, and by which and the terms thereof the said despatch agreed to forward said bales of cotton to said Boston and deliver said bales to such person or persons as the said Mulford should order and direct.

And for that, afterwards, on the same day of said June, at said Memphis, the said James H. Mulford made his certain bill of exchange in writing of that date, directed to Messrs. Green and Travis of said Boston, and thereby requested the said Green and Travis to pay said Mulford, or his order, the sum of twelve thousand one hundred seven dollars thirty-six cents, ($12,107.36,) thirty days after said date, for value received, and charge the same to account of $\frac{G. A. T.}{M.}$ 114 b. c., (meaning thereby said 114 bales of cotton, marked as aforesaid, $\frac{G. A. T.}{M.}$,) bill lading attached, and to said bill of exchange securely fastened and attached and made part of said bill of exchange, and as collateral
4 thereto, said receipt or bill of lading for said 114 bales of cotton, in writing, received as aforesaid by said Mulford from said Great Western Despatch, and then and there endorsed said bill of exchange and said receipt or bill of lading attached thereto, by writing his name upon the back of said bill of exchange and upon the back of said receipt or bill of lading, and then and there, for a valuable consideration, sold and delivered said 114 bales of cotton, and said bill of exchange, and said receipt or bill of lading attached to said bill of exchange and part thereof, to the plaintiffs, and said bank, the plaintiffs became the owners and possessors of said bill of exchange, said receipt or bill of lading attached thereto, and of said 114 bales of cotton marked as aforesaid and therein described.

And plaintiffs say that said 114 bales of cotton, marked as aforesaid, was duly conveyed to said Boston by said despatch; and that, afterwards, on the said second day of said June, they sent said bill of exchange, endorsed as aforesaid, with said receipt or bill of lading, indorsed as aforesaid, and attached as aforesaid, to said bill of exchange, to
5 the Metropolitan National Bank of New York, in the county and State of New York, indorsed by plaintiffs, for collection on account of plaintiffs. And for that said Metropolitan National Bank, in pursuance of their duty, sent said bill of exchange, with said receipt or bill of lading, indorsed as aforesaid, and attached as aforesaid, on the day of June to the defendants at said Boston for collection on account of said plaintiffs; and said defendants received the same, and, for a valuable consideration to be paid them, undertook and promised the plaintiffs to collect the same, and to retain in their hands and possession said receipt or bill of lading attached as aforesaid, and said bill of exchange, and not deliver the same or either of them to said Green and Travis until said bill of exchange was fully paid. And for that said defendants, by their agent or clerk, presented said bill of exchange to said Green and Travis for acceptance, and on the 5th day of July, A. D. 1870, said Green and Travis accepted the same in writing, and thereupon said defendants, without any authority therefor, and in violation of their said agreement, and in disregard of their duty in the premises, and without said bill of exchange being paid, detached said re-

6 ceipt or bill of lading from said bill of exchange, and delivered said receipt or bill of lading to said Green and Travis. And plaintiffs say that the delivery of said receipt or bill of lading to said Green and Travis was a delivery of said 114 bales of cotton to said Green and Travis; and that by means of said receipt or bill of lading delivered to them as aforesaid, said Green and Travis, without paying said bill of exchange, obtained possession of said 114 bales of cotton, which had before then been conveyed and shipped to said Boston, and converted the same to their own use.

And plaintiffs aver that, afterwards, when said bill became due according to the tenor and effect thereof, to wit, on the 5th day of July, A. D. 1870, at said Boston, the said bill was presented to the said Green and Travis to pay the sum of money specified therein according to the tenor and effect of said bill, and the said Green's and Travis' acceptance thereof; but the said Green and Travis did not then, nor at any other time whatsoever pay the said sum, but then and there wholly refused so to do, whereupon the said bill of exchange, afterwards,

7 viz, on said 5th day of July aforesaid, at said Boston, was protested for non-payment thereof.

And the plaintiffs aver that the said Green and Travis, and said defendants, though often requested, have never paid plaintiffs for said cotton nor said bill, but wholly refused so to do.

2ND COUNT.—And also for that one James H. Mulford, on the 2nd day of June, 1870, at said Memphis, being the owner of 114 bales of cotton, of the value thirteen thousand dollars, each bale marked $\frac{G.\ A.\ T.}{M.}$ delivered the same to an express company called the Great Western Despatch, for shipment to said Boston, and then and there received from said despatch a receipt or bill of lading in writing, signed by the agent of said despatch, dated at said Memphis, June 2nd, 1870, for s'd 114 bales of cotton, and by which and the terms thereof said despatch agreed to forward said bales of cotton to said Boston and deliver said bales to such person or persons as the said Mulford should order and direct. And for that, afterwards, on the same day of said June at said Memphis, the said Mulford made his certain bill of exchange in writing of that date, directed to Messrs. Green and Travis of said Bos-

8 ton, and thereby requested said Green and Travis to pay said Mulford or his order the sum of twelve thousand one hundred seven dollars thirty-six cents, ($12,107.36,) thirty days after said date, for value received, and charge the same to account of 114 bales of cotton marked $\frac{G.\ A.\ T.}{M.}$, and stated in writing in said bill of lading; that the bill of lading was attached thereto, and the said bill of exchange securely fastened and attached and made part of said bill of exchange, and, as collateral thereto, said receipt or bill of lading for said 114 bales of cotton in writing, received as aforesaid by said Mulford from said despatch, and then and there endorsed said bill of exchange and said receipt or bill of lading attached thereto by writing his name upon the back of said bill of exchange and upon the back of said receipt or bill of lading; and then and there, for a valuable consideration, sold and delivered said 114 bales of cotton, and said bill of exchange and said re ceipt or bill of lading attached to said bill of exchange and part thereof to plaintiffs, and plaintiffs became the owners and possessors of said bill of exchange, said receipt or bill of lading attached thereto, and of said 114 bales of cotton marked as aforesaid and therein described.

9 And plaintiffs aver that said despatch conveyed said 114 bales of cotton marked as aforesaid to said Boston, and that said bales arrived at said Boston on the day of said June, and that no person

could lawfully obtain possession of said bales without presenting to said despatch or its agents said receipt or bill of lading above described. And plaintiffs say that, afterwards, on the said second day of June they sent said bill of exchange, indorsed as aforesaid, with said receipt or bill of lading indorsed as aforesaid and attached as aforesaid to the Metropolitan National Bank of New York, in the county and State of New York, indorsed by plaintiffs, for collection on account of plaintiffs. And for that said Metropolitan National Bank, in pursuance of their duty, sent said bill of exchange, with said receipt or bill of lading endorsed as aforesaid, and attached as aforesaid, to defendants at said Boston for collection, on account of plaintiffs, and defendants received the same and, for a valuable consideration, to be paid them therefore, undertook and promised the plaintiffs to collect the same, and to retain in their hands and possession said receipt or bill of lading at-
10 tached as aforesaid, and not deliver the same or either of them to said Green and Travis until said bill of exchange was fully paid. And for that said defendants, by their agent or clerk, presented said bill of exchange, with said receipt or bill of lading attached as aforesaid, to said Green and Travis for acceptance on the day of said Green and Travis accepted the same in writing. And plaintiffs aver that, on the day of when said Green and Travis accepted said bill of exchange as aforesaid, that they were insolvent and worthless, and that said defendants then and there well knew them to be insolvent and worthless. And plaintiffs aver that, on said day of and immediately upon accepting said bill, said defendants, without any authority therefor and in violation of their said agreement, and in disregard of their duty in the premises, and without said bill of exchange being paid, and well knowing said Green and Travis to be insolvent and worthless, detached said receipt or bill of lading from said bill of exchange, and delivered said receipt or bill of lading to said Green and Travis. And plaintiffs say that, by means of said receipt or bill of lading delivered to Green and Travis as aforesaid, said Green and
11 Travis, without paying said bill of exchange, and without paying for said cotton, obtained possession of said 114 bales of cotton, and converted the same to their own use, and that without said receipt or bill of lading said Green and Travis could not have lawfully obtained possession of said cotton. And plaintiffs aver that, afterwards, when said bill of exchange became due according to the tenor and effect thereof, to wit, on the 5th day of July, 1870, at said Boston, the said bill was presented to said Green and Travis to pay the sum of money specified therein, according to the tenor and effect of said bill, and the said Green's and Travis' acceptance thereof, but said Green and Travis did not then nor at any other time whatsoever pay the said sum, but then and there wholly refuse so to do; whereupon said bill of exchange afterwards, viz, on said 5th day of said July, at said Boston, was protested for non-payment thereof. And plaintiffs aver that said Green and Travis and said defendants, though often requested, have never paid plaintiffs for said cotton, nor for said bill of exchange, but wholly refused so to do.

12 3RD COUNT. And also, for that one James H. Mulford, on the 7th day of June, 1870, at said Memphis, being the owner of eighty-nine bales of cotton, of the value of ten thousand dollars, each bale marked $\frac{G.\ A.\ T.}{M.\ G.}$ delivered the same to an express company called the Great Western Despatch, for shipment to Boston, in the State of Massachusetts, and then and there received from said despatch a receipt or bill of lading in writing, signed by the agent of said despatch, dated at

said Memphis, June 7th, 1870, for said 89 bales of cotton, and by which and by the terms thereof the said despatch agreed to forward said bales of cotton to said Boston and deliver said bales to such person or persons, and none other, as the said Mulford should order and direct. And for that, afterwards, on the same day of said June, at said Memphis, said Mulford made his certain bill of exchange in writing of that date, directed to Messrs. Green and Travis, of said Boston, and thereby requested said Green and Travis to pay said Mulford or his order the sum of eight thousand eight hundred two dollars $\frac{43}{100}$ ($8,802.43) in thirty days after said date for value received, and charge the same to account of 89 bales of cotton, marked $\frac{G.\ A.\ T.}{M.\ G.}$ and stated in writ-
13 ing in said bill of exchange that the bill of lading was attached thereto, and to said bill of exchange, securely fastened and attached and made part of said bill of exchange, and as collateral security therefor, said receipt or bill of lading for said 89 bales of cotton in writing, received as aforesaid by said Mulford from said despatch, and then and there endorsed said bill of exchange and said receipt or bill of lading, attached thereto, by writing his name upon the back of said bill of exchange, and upon the back of said receipt or bill of lading, and then and there, for a valuable consideration, sold and delivered said 89 bales of cotton, and said bill of exchange and said receipt or bill of lading attached to said bill of exchange and part thereof to plaintiffs, and plaintiffs became the owners and possessors of said bill of exchange and said receipt or bill of lading attached thereto, and of said 89 bales of cotton, marked as aforesaid and therein described.

And plaintiffs aver that said despatch conveyed said 89 bales of cotton, marked as aforesaid, to said Boston, and that said bales arrived at said Boston on the day of , and that no person could lawfully obtain possession of said bales from said despatch without first
14 presenting to said despatch or its agents said receipt or bill of lading above described. And plaintiffs say that, afterwards, on said 7th day of said June, they sent said bill of exchange, indorsed as aforesaid, with said receipt or bill of lading endorsed and attached as aforesaid, to the Metropolitan National Bank of New York, in the county and State of New York, indorsed by plaintiffs for collection on account of plaintiffs. And for that said Metropolitan National Bank, in pursuance of their duty, sent said bill of exchange, with said receipt or bill of lading, endorsed as aforesaid, and attached as aforesaid, to defendants, at said Boston, for collection on account of plaintiffs, and defendants received the same, and, for a valuable consideration to be paid them therefor, undertook and promised the plaintiffs to collect the same, and to retain in their hands and possession said receipt or bill of lading attached as aforesaid, and part of said bill of exchange, and not deliver the same nor either of them to said Green and Travis until said bill of exchange was fully paid. And for that said defendants, by their agent or clerk, presented said bill of exchange, with said receipt or bill
15 of lading attached, and indorsed as aforesaid, to said Green and Travis for acceptance, and on the day of said Green and Travis accepted the same in writing; whereupon, immediately thereafter, on the same day of , said defendants, without any authority therefor, and in violation of their said agreement, and in disregard of their duty in the premises, and without said bill of exchange being paid, detached said receipt or bill of lading from said bill of exchange, and delivered said receipt or bill of lading to said Green and Travis. And plaintiffs say that by means of said receipt or bill of lading, delivered to said Green and Travis as aforesaid, said Green and Travis, without

paying said bill of exchange and without paying for said cotton, obtained possession of said 89 bales of cotton from said despatch and converted the same to their own use; and that, without said receipt or bill of exchange, said Green and Travis could not have lawfully obtained possession of said cotton. And plaintiffs aver that, afterwards, when said bill of exchange became due according to the tenor and effect thereof, to wit, on the 9th of July, 1870, at said Boston, the said
16 bill of exchange was presented to said Green and Travis, the acceptors thereof as aforesaid, to pay the sum of money specified therein according to the tenor and effect of said bill, and of the said Green and Travis' acceptance thereof, but said Green and Travis did not then nor at any time whatsoever pay the said sum, but then and there wholly refused so to do; whereupon said bill of exchange, afterwards, viz, on said 9th day of said July, at said Boston, was protested for non-payment thereof. And plaintiffs aver that said Green and Travis and said defendants, though often requested, have never paid plaintiffs for said cotton nor for said bill of exchange, but wholly refuse so to do.

4TH COUNT.—And also for that said Mulford, on the 7th of June, 1870, at s'd Memphis, being the owner of 89 bales of cotton of the value of ten thousand dollars, each bale marked $\frac{G.\ A.\ T.}{M.\ G.}$, delivered the same to an express company called the Great Western Despatch, for shipment to Boston, and then and there received from said despatch a receipt or bill of lading in writing signed by the agent of said
17 despatch, dated at said Memphis, June 7th, 1870, for said 89 bales of cotton, and by which, and by the terms thereof, said despatch agreed to forward said bales of cotton to said Boston, and delivered said bales to such person or persons, and none other, as the said Mulford should order and direct. And for that, afterwards, on the same day of said June, at s'd Memphis, said Mulford made his certain bill of exchange in writing of that date, directed to Messrs. Green and Travis, of said Boston, and thereby requested said Green and Travis to pay said Mulford or his order the sum of $8,802.43, in thirty days after said date, for value received, and charge the same to account of 89 bales of cotton, marked $\frac{G.\ A.\ T.}{M.\ G}$, and stated in writing in said bill of exchange that the bill of lading was attached thereto; and to said bill of exchange securely fastened and attached and made part of said bill of exchange and as collateral security therefor, said receipt or bill of lading for s'd 89 bales of cotton in writing, received as aforesaid by said Mulford from said despatch, and then and there endorsed said bill of exchange and said receipt or bill of lading by writing his name upon the back of said bill of exchange and upon the back of said receipt or bill of lading; and then and there, for a valuable consideration,
18 sold and delivered said 89 bales of cotton and said bill of exchange and said receipt or bill of lading attached to said bill of exchange and part thereof to plaintiffs, and plaintiffs became the owners and possessors of s'd bill of exchange and s'd receipt or bill of lading attached thereto, and of said 89 bales of cotton marked as aforesaid and therein described. And plaintiffs aver that said despatch conveyed said 89 bales of cotton marked as aforesaid to said Boston, and that said bales arrived at said Boston on the day of , and that no person could lawfully obtain possession of said bales from said despatch without first presenting to said despatch or its agents said receipt or bill of lading above described. And plaintiffs say that, afterwards, on said 7th day of said June, they sent said bill of exchange, indorsed as aforesaid, with said receipt or bill of lading attached and

endorsed as aforesaid, to the Metropolitan National Bank of New York, in the county and State of New York, indorsed by plaintiffs for collection on account of plaintiffs. And for that said Metropolitan National Bank, in pursuance of their duty, sent said bill of *of* exchange,
19 with said receipt or bill of lading endorsed as aforesaid, and attached as aforesaid, to defendants at said Boston for collection on account of plaintiffs; and defendants received the same, and, for a valuable consideration to be paid them therefor, undertook and promised the plaintiffs to collect the same and to retain in their hands and possession said receipt or bill of lading attached as aforesaid, and not deliver the same or either of them to said Green and Travis until said bill of exchange was fully paid. And for that said defendants, by their agent or clerk, presented said bill of exchange, with said receipt or bill of lading attached as aforesaid, to said Green and Travis for acceptance, and on the day of , said Green and Travis accepted the same in writing. And plaintiffs aver that, on the said day of , when said Green and Travis accepted said bill of exchange as aforesaid, they were insolvent, bankrupt, and worthless, and that said defendants then and there well knew them to be insolvent, bankrupt, and worthless. And plaintiffs aver that, on said day of , and immediately upon said Green's and Travis' accepting said bill of ex-
20 change, said defendants, without any authority therefor, and in violation of their said agreement, and in disregard of their duty in the premises, and without said bill of exchange being paid, and well knowing said Green and Travis then and there to be insolvent, bankrupt, and worthless, detached said receipt or bill of lading from said bill of exchange, and delivered said receipt or bill of lading to said Green and Travis. And plaintiffs say that, by means of said receipt or bill of lading delivered to Green and Travis as aforesaid, said Green and Travis, without paying said bill of exchange, and without paying for said cotton, obtained possession of said 89 bales of cotton from said despatch at said Boston, and converted the same to their own use, and that, without said receipt or bill of lading above described, said Green and Travis could not lawfully have obtained possession of said cotton. And plaintiffs aver that, afterwards, when said bill of exchange became due according to the tenor and effect thereof, to wit, on the 9th day of said July, at s'd Boston, the said bill was presented to said Green and Travis to pay the sum of money specified therein, according to
21 the tenor and effect of said bill and of Green's and Travis' acceptance thereof, but said Green and Travis did not then nor at any other time pay the said sum, but then and there wholly refused so to do; whereupon said bill of exchange afterwards, viz, on the 9th of said July, at said Boston, was duly protested for non-payment thereof. And plaintiffs aver that said Green and Travis and said defendants, though often requested, have never paid plaintiffs for said cotton, nor for said bill of exchange, but wholly refuse so to do.

5TH COUNT.—Also, for that one G. M. Anderson, on the 24th of June, 1870, at Memphis aforesaid, being the owner of 108 bales of cotton, each bale $\frac{G\ T}{A}$, and of the value of eleven thousand dollars, delivered the same to an express company called the Great Western Despatch, for shipment to said Boston, and then and there received from said despatch a receipt or bill of lading in writing, signed by the agent of said despatch, dated at said Memphis, June 24th, 1870, for said 108 bales of cotton, and by which and the terms thereof the said despatch agreed to forward said bales of cotton to said Boston, and deliver said
22 bales to such person or persons, and such only, as the said Ander-

son should order and direct; and for that, on the same 24th day of said June, at s'd Memphis, the said Anderson made his certain bill of exchange in writing of that date, directed to Messrs. Green and Travis, of said Boston, and requested the said Green and Travis, at sight thereof, to pay said Anderson or his order the sum of ten thousand six hundred seventy-three dollars, twenty-four cents, ($10,673.24,) for value received, and charge the same to the account of said Anderson, and then and there indorsed said bill of exchange by writing his name upon the back thereof; and on the same 24th day of said June, said Anderson, for a valuable consideration, sold said 108 bales of cotton and said bill of exchange, indorsed as aforesaid, and said receipt or bill of lading, indorsed by said Anderson by writing his name upon the back thereof, to plaintiffs, and delivered said 108 bales of cotton and said bill of exchange, indorsed as aforesaid, and said receipt or bill of lading, indorsed as aforesaid, to plaintiffs, and said plaintiffs became the owner and possessor of said bill of exchange, endorsed as aforesaid, and of said receipt or bill of lading, endorsed as aforesaid, and of said 108 bales of cotton, marked as aforesaid; and plaintiffs aver that said despatch conveyed said 108 bales of cotton, marked as aforesaid, to said Boston, and that said bales arrived at said Boston on the day of , and that no person could lawfully obtain possession of said bales without presenting to said despatch or its agents said bill of lading or receipt above described; and plaintiffs say that afterwards, on the said 24th day of said June, they sent said bill of exchange, indorsed as aforesaid, together with and accompanied by said receipt or bill of lading, indorsed as aforesaid, to the Metropolitan National Bank of New York, in the county and State of New York, for collection on account of plaintiffs; and for that said Metropolitan National Bank, in pursuance of their duty, sent said bill of exchange, indorsed as aforesaid, together with and accompanied by said receipt or bill of lading, indorsed as aforesaid, to defendants, for collection on account of plaintiffs; and defendants received said bill of exchange and said receipt or bill of lading, and, for a valuable consideration to be paid them therefor, undertook and promised the plaintiffs to collect said bill of exchange, and to retain in their hands and possession said receipt or bill of lading, and not deliver the same, or either of them, until said bill of exchange was fully paid; and for that said defendants, by their agent or clerk, presented said bill of exchange, indorsed as aforesaid, to said Green and Travis for acceptance, and, on the 29th day of said June the said Green and Travis accepted said bill of exchange in writing; and plaintiffs aver that, on said 29th day of said June, when said Green and Travis accepted said bill of exchange, they were insolvent, bankrupt, and worthless, and that, on the same 29th day of said June, they suspended payment, and that said defendants then and there well knew them to be insolvent, bankrupt, and worthless; and plaintiffs aver that, on said 29th day of said June, immediately upon said Green and Travis accepting said bill of exchange, without any authority therefor and in violation of their said agreement, and in disregard of their duty in the premises, and without said bill of exchange being paid, and well knowing said Green and Travis to be insolvent, bankrupt, and worthless, delivered said receipt or bill of lading, indorsed as aforesaid, to said Green and Travis; and plaintiffs say that, immediately on the same day, upon receiving said receipt or bill of lading, they indorsed the same and pledged the same to one Samuel A. Way, of Boston, for a valuable consideration; and plaintiffs aver that, afterwards, when said bill of exchange became due according to the tenor and effect thereof, to wit,

on the 2d day of July, 1870, at said Boston, the said bill was presented to said Green and Travis, to pay the sum of money specified therein according to the tenor and effect of said bill, and the said Green's and Travis' acceptance thereof; but said Green and Travis did not then, nor at any other time whatsoever, pay the said sum, but then and there wholly refused so to do, whereupon said bill of exchange, viz, on said 2d day of said July, at said Boston, was protested for non-payment thereof; and plaintiffs aver that, in order to redeem said bill of lading and obtain possession of their said cotton, they were compelled to pay and did pay to said Samuel A. Way, to whom said cotton was pledged as aforesaid, the sum of ten thousand dollars; and plaintiffs aver that said Green and Travis and said defendants, though often requested, have never paid plaintiffs for said cotton, nor for said bill of exchange, nor said sum of ten thousand dollars, paid to said Way by plaintiffs as aforesaid, but
26 wholly refuse so to do, to the damage of the said plaintiffs, as they say, the sum of fifty thousand dollars.

The writ in this cause is dated the twenty-ninth day of April, A. D. 1871, and was entered at the May term of this court, A. D. 1871, when and where the parties appeared by their respective attorneys, and thence the same was continued from term to term to this present term, when, on the eighth day of November, the following answer is filed, namely:

Circuit court of the United States, Massachusetts district, ss:

THE MERCHANTS' NATIONAL BANK OF MEMphis
v.
THE NATIONAL BANK OF COMMERCE OF BOSton.

Defendants' answer.

The defendants, for answer to the first count in the plaintiffs' declaration, say that they deny each and every allegation in said count contained; and they further say that if the plaintiff shall prove that
27 the bill of lading or receipt, and the bill of exchange, mentioned in said count, were ever sent to these defendants for collection; that Green and Travis had purchased of James H. Mulford, the drawer of said bill of exchange, the 114 bales of cotton mentioned in said bill of lading or receipt, and in payment therefor agreed to accept the bill of exchange, to be drawn by said James H. Mulford therefor, on the shipment of said 114 bales of cotton, payable in thirty days after the date of said shipment, and that said Mulford shipped said 114 bales of cotton in pursuance of said purchase, and that the bill of exchange mentioned in said count of said declaration was drawn in pursuance of said agreement, and that said defendants presented said bill of exchange to said Green and Travis for acceptance; that said Green and Travis accepted the same, and the defendants, as was their duty to do upon such acceptance, delivered said bill of lading or receipt to the said Green and Travis.

And the defendants, for answer to the second count of the plaintiff's declaration, say that they deny each and every allegation in said count contained; and they further say that if the plaintiff shall prove
28 that the bill of lading or receipt and the bill of exchange mentioned in said count were ever sent to these defendants for collec-

tion, that Green and Travis had purchased of James H. Mulford, the drawer of said bill of exchange, the 114 bales of cotton mentioned in said bill of lading or receipt, and in payment therefor agreed to accept the bill of exchange to be drawn by said James H. Mulford, therefor, on the shipment of said 114 bales of cotton, payable in thirty days after the date of said shipment, and that said Mulford shipped said 114 bales of cotton in pursuance of said purchase, and that the bill of exchange mentioned in said count of said declaration was drawn in pursuance of said agreement, and that said defendants presented said bill of exchange to said Green and Travis for acceptance, that said Green and Travis accepted the same, and the defendants, as was their duty to do upon such acceptance, delivered said bill of lading or receipt to the said Green and Travis.

And the defendants, for answer to the third count in the plaintiff's declaration, say that they deny each and every allegation in said
29 count contained; and they further say that if the plaintiff shall prove that the bill of lading or receipt and the bill of exchange mentioned in said count were ever sent to these defendants for collection, that Green and Travis had purchased of James H. Mulford, the drawer of said bill of exchange, the 89 bales of cotton mentioned in said bill of lading or receipt, and in payment therefor agreed to accept the bill of exchange to be drawn by said James H. Mulford therefor on the shipment of said 89 bales of cotton, payable in thirty days after the date of said shipment, and that said Mulford shipped said 89 bales of cotton in pursuance of said purchase, and that the bill of exchange mentioned in said count of said declaration were drawn in pursuance of said agreement, and that said defendants presented said bill of exchange to said Green and Travis for acceptance, and that said Green and Travis accepted the same, and the defendants, as was their duty to do upon such acceptance, delivered said bill of lading or receipt to the said Green and Travis.

And the defendants, for answer to the fourth count of the plaintiff's declaration, say that they deny each and every allegation in
30 said count contained; and they further say that if the plaintiff shall prove that the bill of lading or receipt, and the bill of exchange mentioned in said count, were ever sent to these defendants for collection, that Green and Travis had purchased of James H. Mulford, the drawer of said bill of exchange, the 89 bales of cotton mentioned in said bill of lading or receipt, and in payment therefor agreed to accept the bills of exchange to be drawn by said James H. Mulford therefor on the shipment of said 89 bales of cotton, payable in thirty days from the date of said shipment, and that said Mulford shipped said 89 bales of cotton in pursuance of said purchase, and that the bill of exchange mentioned in said count of said declaration was drawn in pursuance of said agreement, and that said defendants presented said bill of exchange to said Green and Travis for acceptance, that said Green and Travis accepted the same, and the defendants, as was their duty to do upon such acceptance, delivered said bill of lading or receipt to the said Green and Travis.

And the defendants, for answer to the fifth count in the plaint-
31 iff's declaration, say that they deny each and every allegation in said count contained; and they further say that if the plaintiff shall prove that the bill of lading or receipt, and the bill of exchange mentioned in said count, were ever sent to these defendants for collection, that Green and Travis had purchased of G. W. Anderson, the drawer of said bill of exchange, the 108 bales of cotton mentioned in

said bill of lading or receipt, and in payment therefor agreed to accept the bill of exchange to be drawn by said G. W. Anderson therefor on the shipment of said 108 bales of cotton, payable at sight, and that said Anderson shipped said 108 bales of cotton in pursuance of said purchase, and that said bill of exchange mentioned in said count of said declaration was drawn in pursuance of said agreement, and that said defendants presented said bill of exchange to said Green and Travis for acceptance, that said Green and Travis accepted the same, and the defendants, as was their duty to do upon such acceptance, delivered said bill of lading or receipt to the said Green and Travis.

HENRY W. PAINE, AND
HENRY C. HUTCHINS,
For Defendants.

32 Issue being thus joined, the cause, after a full hearing, is committed to a jury sworn according to law to try the issue, who, after hearing all matters and things concerning the same, return their verdict therein, and upon oath say: The jury find for the plaintiffs, and assess damages in the sum of thirty-four thousand five hundred ninety-four dollars twenty-three cents.

It is thereupon considered by the court, to wit, March 10th, A. D. 1873, that the said Merchants' National Bank of Memphis, Tennessee, plaintiff, recover of the said National Bank of Commerce of Boston, Massachusetts, defendant, the sum of thirty-five thousand one hundred thirty-five dollars and ninety-eight cents, damages, and its costs of suit, taxed at seven hundred fifty dollars and seventy-two cents.

Upon the trial of the said cause, after the evidence was closed on both sides, and before the issue was submitted to the jury, the defend-
33 ant filed its bill of exceptions, which was sealed and allowed by the court, and is in the words and figures following, namely:

Be it remembered that, at a term of a circuit court of the United States, holden at Boston, within and for the district of Massachusetts, on the 15th day of October, 1872, by the honorable George F. Shepley, circuit judge, came the Merchants' National Bank of Memphis, a corporation duly established by the laws of the United States, at Memphis, in the State of Tennessee, and by an action of special assumpsit declared against the National Bank of Commerce, a corporation duly established by the laws of the United States, at Boston, in said district, as by the writ and declaration of record will appear; to which the defendants filed their answer as also of record appears, and thereupon came on for trial before the said circuit court at said October term, before a jury empanelled for that purpose, and that said plaintiff then and there, to maintain and prove the issue on its part, submitted to the court and jury the following documents and oral testimony, to wit:

34 A draft or bill of exchange of which the following is a copy.

Exchange for $12,107.36.

MEMPHIS, TENN., *June 20th*, 1870.

Thirty days after date of this first exchange, (second unpaid,) pay to the order of James H. Mulford twelve thousand one hundred and

seven $\frac{36}{100}$ dollars, value received, and charge the same to account of $\frac{\text{G. A. T.}}{\text{M.}}$ 114 b. c., (bill of lading attached.)

(Signed) JAMES H. MULFORD.

To Mess. GREEN and TRAVIS,
Boston, Mass.

(Written across the face:) GREEN & TRAVIS.

(Endorsed:) Pay JAMES H. MULFORD.

Pay Metropolitan National Bank.
Merchants' National Bank of Memphis.
JNO. J. FREEMAN,
Cashier.

Pay National Bank of Commerce or order for collection.
G. I. SENEY, *Cashier.*
By H. CHAPIN, JR.

The following is a copy of the bill of lading attached.

35 GREAT WESTERN DESPATCH.

United States Express Co., Fast Freight Line, via Erie Railway.

All freight forwarded and received by the Erie Railway.
NEW YORK DEPOTS.—Pier eight (8) East River, and Erie Railroad pier, foot of Chamber st.

W. H. PERRY,

General Superintendent New York, Office 291 *Broadway.*

MEMPHIS, *June 2d*, 1870.

G. W. D. Marks.
G. A. T. M. Order.
Boston.
This bill of lading is from Memphis to Boston, Mass. The rate of freight through is to be 75 per 100 lbs; per barrell; weights, subject to correction.

Received from James H. Mulford, the following packages (contents unknown) in apparent good order, viz: One hundred and fourteen (114) bales compressed cotton, 54,093 lbs, marked and numbered as per margin, to be transported by the Great Western Despatch, and the steamboats, railroad companies, and forwarding lines with which it connects, until the said goods or merchandize shall have reached the point named in this bill of lading on the following terms

36 and conditions, viz: That the said Great Western Despatch, and the steamboats, railroad companies, and forwarding lines with which it connects, and which receive said property, shall not be liable for leakage of oils or any kind of liquids, breakage of any kind of glass, earthen or queensware, carboys of acid, or articles packed in glass, stoves and stove furniture, castings, machinery, carriages, furniture, musical instruments of any kind, packages of eggs, or for rust of iron, and of iron articles, or for loss or damage by wet, dirt, fire, or loss of weight, or for condition of baling in hay, hemp, or cotton; nor for loss or damage of any kind on any article whose bulk requires it to be carried on open cars; nor for damage to perishable property of any kind, occasioned by delays from any cause, or by change of weather; nor for loss or damage on any article of property whatever, by fire or other causalty while in transit, or while in depots or places of tran'shipment,

or at depots or landings at point of delivery; nor for loss or damage by fire, collision, or the dangers of navigation while on seas, rivers, lakes, or canals. All goods or property under the bill of lading will be subject, at its owner's cost, to necessary cooperage or baling, and it is to be transported to the depots of the companies or landings of steam-
37 boats or forwarding lines at the point receipted to for delivery.

It is further agreed that the Great Western Despatch, and the steamboats, railroad, and forwarding lines with which it connects, shall not be held accoutable for any damage or deficiency in packages after the same shall have been receipted for in good order by consignees or their agents at or by the next carrier beyond the point which this bill of lading contracts. Consignees are to pay freight and charges upon the goods or merchandize in lots or parts of lots as they may be delivered to them.

It is further stipulated and agreed that, in case of any loss, detriment, or damage done to or sustained by any of the property herein receipted for during such transportation whereby any legal liability or responsibility shall or may be incurred, the Great Western Despatch shall have the full benefit of any insurance that may have been effected upon or on account of said goods.

And it is further agreed that the amount of the loss or damage so accruing, so far as it shall fall upon the carriers above described,
38 shall be computed at the value or cost of said goods or property at the place and time of shipment under this bill of lading.

This contract is executed and accomplished, and the liability of the companies as common carriers thereunder terminates on the arrival of the goods or property at the station or depot of delivery, and the companies will be liable as warehousemen only thereafter and unless removed by the consignee from the station or depots of delivery within 24 hours of their said arrival, they may be removed and stored by the company at the owner's expense and risk.

NOTICE.—In accepting this bill of lading, the shipper or other agent of the owner of the property carried, expressly accepts and agrees to all stipulations, exceptions, and conditions.

In witness whereof the agent hath affirmed to 3 bills of lading of this tenor and date, one of which being accomplished, the others are to stand void.

(Duplicate) JA'S E. LAWTON, *Agent.*

(Endorsed:) G't Western Despatch b. l. 114, June 2, '70. J. H. Mulford.

39 *Copy of second draft.*

$8,802.43.] MEMPHIS, TENN, *June 7th*, 1870.

Thirty days after date of this first exchange, (second unpaid,) pay to the order of James H. Mulford eighty-eight hundred and two $\frac{43}{100}$ dollars, value received, and charge the same to account $\frac{\text{G. A. T.}}{\text{M. G.}}$, 89 b. c.

(bill of lading attached.)

(Signed) JAMES H. MULFORD.

To Mess. GREEN and TRAVIS,
Boston, Mass.

JULY 10.

(Written across the face:) GREEN and TRAVIS.

(Endorsed:) JAMES H. MULFORD, $1,611.
Pay Metropolitan National Bank.
Merchants' National Bank of Memphis.
JNO. J. FREEMAN,
Cashier.

Pay National Bank of Commerce or order for collection.
G. I. SENEY, *Cashier.*
By H. CHAPIN, JR.

Copy of second bill of lading.

The original bill of lading being lost, the following copy was admitted by consent:

40 GREAT WESTERN DESPATCH.

By arrangement between the following railroad companies, viz: Eastern R. R., Boston & Albany R. R., Worcester & Nashua R. R., Providence & Worcester R. R., Housatonic R. R., New York & Oswego Midland R. R., New York Central & Hudson River R. R., Great Western R. Way, Michigan Central R. R., Fort Wayne, Jackson & Saginaw R. R., Detroit, Lansing & Lake Michigan R. R., Chicago & Michigan Lake Shore R. R., Detroit & Eel River & Illinois R. R., Chicago & Alton R. R., Chicago, Burlington & Quincy R. R., Illinois Central R. R.

GENERAL FREIGHT AGENTS.—H. J. Hayden, Boston, Mass., Boston and Albany R. R.; W. J. C. Kenny, Boston, Mass., Eastern R. R.; J. M. Williams, Worcester, Mass., Worcester and Nashua R. R.; J. E. Bacon, Providence, R. I., Providence and Worcester, R. R.; H. C. Cogswell, Bridgeport, Conn., Housatonic R. R.; H. M. Weed, Oswego, N. Y., New York and Oswego and Midland R. R.; J. H. Rutter, Grand Central Depot, New York, New York Central and Hudson River R. R.; John Crampton, Detroit, Mich., Great Western Railway.

(Picture of car, on which are the following words:) Great Central Route Through Freight Line (Blue Line) from the Atlantic to the Mississippi. New York, Boston, Susp. Bridge, Detroit, Burlington, Chicago, St. Louis, Quincy, Cairo. Great Western. No. 3040.

GENERAL FREIGHT AGENTS.—Thomas Hoops, Chicago, Ill., Michigan Central R. R.; William Keavy, Jackson, Mich., Fort Wayne, Jackson and Saginaw R. R.; J. W. Bromley, Detroit, Mich., Detroit, Lansing and Lake Michigan R. R.; A. M. Nichols, St. Joseph, Mich., Chicago and Michigan Lake Shore R. R.; F. Milligan, Detroit, Mich., Detroit, Eel River and Illinois R. R.; James Smith, Chicago, Ill., Chicago and Alton R. R.; E. R. Wadsworth, Chicago, Ill., Chicago, Burlington and Quincy R. R.; J. F. Tucker, Chicago, Ill., Illinois Central R. R.

J. D. HAYES,
Gen. Manager, Detroit, Mich.

MEMPHIS, TENN., *June 7th*, 1870.

G. A. T. M.
To order.
Boston.
Bill of lading is void unless each package is marked G. W. D.
☞ All articles entered on this bill of lading shall be subject to, and governed by, the classification as published by connecting railroads, and to the rates properly belonging to such classification; and the rates as written in below shall only apply to such goods as are included in the class opposite or against which the rate is written in.
Articles enumerated in the classification as subject to once and a half or twice first-class rates, or more, shall be subject to once and a half or twice, or more, as the case may be, the first-class rates written herein.
Rates in cts. per 100 lbs.
1st class.....
2d class.....
3d class.....
4th class.....
Special.....
Subject to change of classification and corresponding change of rate west of Chicago or Milwaukee and U. S. Government tax.
Goods destined to points in Michigan beyond Detroit will be charged the local classification from Detroit.

Rec'd of James H. Mulford, by the Great Western Despatch, at their depot, in apparent good order, the following packages, being marked as in the margin, to say: Eighty-nine bales of cotton, weight, .

The above described packages (contents and value unknown) consigned as marked, and numbered in the margin, to be transported over this line and delivered to the consignee, or to the next company or carriers, (if the same are to be forwarded beyond,) for them to deliver to the place of destination of said goods or packages, it being distinctly understood that the reponsibility of this line, as common carriers, shall cease at the stations where delivered to such consignee or carriers.

The rate of freight for the transportation of said packages from Boston to guaranteed as per rate entered in the margin, and charges advanced by these companies, upon the following conditions:

☞ All articles entered on this bill of lading shall be subject to, and governed by, the classification as published by the railroads forming this line, and to the rates properly belonging to such classification; and the rates as written in above shall only apply to such goods as are included in the class opposite or against which the rate is written in.

☞ Articles enumerated in the classification as subject to once and a half first-class rates, or more, shall be subject to once and a half first-class rates, or more, as the case may be, as per classification.

☞ The owner or consignee to pay freight or charges as per specified rates, upon the goods as they arrive.

☞ Freight to be paid upon the weight by companies' scales.

☞ Freight carried by these companies must be removed from the station during business hours, on the day of its arrival, or it will be stored at the owners' risk and expense, and in the event of its destruction or damage from any cause, while in the depot of any company, it is agreed that the company shall not be liable to pay any damage therefor.

Freight will be charged upon the actual weight of property at point of shipment, and no deduction will be allowed for leakage or shrinkage in transit.

It is agreed, and is a part of the consideration of the contract, that the companies will not be responsible for leakage of liquors, breakage of glass or queensware, the injury or breakage of looking-glasses, glass show-cases, picture-frames, stove-castings, or hollow-ware, nor for injury to the hidden contents of packages, nor for the loss of weight or otherwise, of grain and coffee in bags, or rice in tierces, nor for the decay of perishable articles, nor for damages arising to any article carried, from the effects of heat or cold, nor for the loss of nuts in bags, or lemons or oranges in boxes, unless covered with canvas, or loss or damage to goods occasioned by Providential causes, or by fire from any case whatever, while in transit or at stations, nor will the companies be responsible for damages on tobacco, unless it is proved to have occur'ed during the time of its transit over this line, and notice must be given within thirty hours after the arrival of the same.

The companies will not be responsible for accidents or delays from unavoidable causes. The responsibility of these companies as carriers to terminate on the delivery of the freight, as per this bill of lading, to the company whose line may be considered a part of the route, to the place of destination of said goods or packages.

In the event of the loss of any property, for which the carriers may be responsible under this bill of lading, the value or cost of the same at the point and time of shipment is to govern the settlement for the same. And in case of loss or damage of any of the goods named in this bill of lading, for which these companies may be liable, it is agreed and understood that they may have the benefit of any insurance effected by or on account of the owner of said goods.

Goods in bond subject to custom-house regulations and expenses.

Cases or packages of boots and shoes, and of other articles liable to peculation or fraudulent abstraction, must be strapped with iron or wood, or otherwise securely protected, or the companies will not be liable for diminution of the original contents, and the company will hold the freighter, in all cases, to bear the loss arising from improper packing.

Specie, drafts, bank-bills, and other articles of great intrinsic or representative value, will not be carried as freight.

The agent at destination will settle claims for losses, over charges, errors, and damages; this bill of lading being surrend'red upon payment of claims, as the authority upon which to get the amount repaid by the companies over whose lines the property may have been carried or from the company in whose hands the loss or damage occurred.

This receipt to be presented without alteration or erasure.

(Signed by) *Agent.*

41 BLUE LINE CLASSIFICATION.—SUBJECT TO CHANGE.

☞ Perishable property not received except at owners' risk, and freight prepaid. Camphene, burning-fluid, and varnish will only be taken at owners' risk by rail at first-class rates. Gunpowder, friction-matches, and other combustible articles, will be received and transported only by special contract.

Articles.	Class.
Acids, less than car-load	twice first class.
Acids in car-loads	3
Agricultural implements	Special contract.
Ale and porter, in glass	1
Ale, in wood; alum	3
Ammoniacal water	2
Antimony, crude	2
Antimony, metal; anchors	4
Anvils	3
Apples, dried	2
Arsenic, crude, in kegs or bbls	3
Argals	4
Axes; axle-grease	3
Batts; bath-tubs	1
Barrels, empty	1
Baskets	twice first class.
Baking-powders	2
Bags, (except gunny;) bagging	2
Barilla; bark and cob mills	3
Barley, pearl	3
Bath-brick; barytes	4
Bed-springs	twice first class.
Bellows	1
Bed-cords; beeswax	2
Beer-barrels, empty	3
Bells; berries	2
Beer, in wood	3
Bird-cages (boxed)	twice first class.
Billiard-tables (boxed,) owners' risk	1
Binders' boards	2
Blinds	1
Blue vitriol	2
Black lead, in bbls. or boxes	3
Bleaching-salts	4
Books; boots and shoes	1
Boiler-felting, in rolls or bales	2
Boiler-flues, copper or brass	2
Bottles	2
Borax, in bbls. or boxes	2
Bones	3
Brick, fire	4
Broom-corn, pressed	1
Brooms; broom-brushes	1
Brass and pewter fawcets	2

Articles.	Class.
Brimstone, in boxes or kegs	2
Brimstone in bbls. or hhds	4
Buffalo robes	1½ first class.
Bungs, wooden, for bbls. & kegs	3
Butter; burlaps	2
Burning-fluid, owners' risk of leakage	1
Burr-blocks	4
Cabinet ware, set up and boxed.	twice 1st class.
Cabinet ware, knocked down and well boxed.	1
Car-springs, (steel,) in bdls. or boxes	3
Carriages & sleighs, boxed or on wheels, too large for box-car.	4 times 1st class (actual weight) released.
Carriages & sleighs, boxed, loaded in box-car.	twice first class.
Carriage springs, boxes, and axles	2
Caps	1
Camphene, owners' risk of leakage	1
Carpeting	1
Carpet-lining	2
Cassia, in mats	1
Cassia, in bags or boxes	2
Cards	1
Castor-oil, in cans or cases	1
Caloric engines; candles	2
Cast-iron grain-mills	2
Car-wheels; car axles	4
Car-springs, (rubber,) loose	2
Car-springs, (rubber,) in boxes or casks	3
Car-springs, (volute,) in boxes	3
Cedar, in board, plank, or scantling,	3
Chairs, matted, or boxed, released.	three times first class.
Chain-stuff, in rough	2
China ware, in boxes	1
China ware, in casks	2
Chain-cotton; woolen & hemp	2
Chains, loose	2
Chains, in casks	3
Chain-cable	4
Cheese, in boxes or casks	2
Chocolate	2
Chicory	3
Chalk	4
Cigars	twice first-class.
Cigars, packed in b'x's, not less than 100 lbs.	twice 1st class.
Cider, in bbls. or hhds	3
Clocks and weights	1
Clover and grass seed	2
Clove-stems, in sacks	2
Clay	4
Cordage; corn-husks	2
Chloride of lime	2
Coffee, roasted	3
Cocoa-nuts	2
Confectionery; coffins	1
Cotton, in square bales	1
Cotton-waste, pressed in bales	2
Cotton-yarn; cotton-waste	1
Corks; covers	1
Cocoa; cocoa-matting	2
Coffee mills; coffee extract	2
Coffee, ground, in bbls. or boxes	2
Coffee, in single sacks, owners' risk	4
Coloring, in wood	2
Copper bottoms	2
Copper and brass vessels in boxes or casks	2
Copper, in plates, sheets, bolts, pigs, wire, nails, and rod.	2
Copperas, in bbls. or boxes	4
Copying-pressess	2
Crackers	1
Cream tartar in bbls. or hhds	3
Cream tartar, in boxes or kegs	2
Crucibles	3
Crockery, in boxes or bbls	2
Currants, in bbls	3
Cutlery	2
Dates	2
Deerskins, in bales	1
Demijohns, owners' risk	twice 1st class.
Dessic'ated meats and vegetables, in cans, boxes.	4
Drums	4 times first class.
Dry-goods, in boxes or bales	1
Domestics — sheetings, tickings, shirtings, denims, in bales or boxes.	1
Drugs and medicines; duck	1
Dye-woods, in stick	3
Dye-woods, in bags or bbls	2
Earth-paints	4
Emery	2
Extract logwood	2
Farm wagons, in pieces	1
Feathers	twice first class.
Fishing poles, in b'dl's, owners' risk, released.	twice 1st class.
Figs, in drums	1
Figs, in casks or boxes	2
Fish, (fresh,) prepaid	1
Fire-crackers	1
Flax-seed; flax, boxed	2
Flour and meal, in bbls	4
Floor-tiling	4
Forks, hay and manure	2
Fruit, dried, (not otherwise specified)	2
Furs, in bales	twice 1st class.
Furniture, matted or loose, released.	twice first class.
Furniture, set up and boxed,	twice first class.
Furniture, second-hand, well boxed, accompanied by passenger.	1
Furniture, knocked down, well boxed	1
Garden-seeds	1
Gas-fixtures, boxed	2
Gas-pipe, wrought	3
Gambia, in bags or bales	3
Ginger	2
Glass ware	1
Glue	2
Glycerine, crude	3
Grass and clover seed	2
Grass and hemp mats	2
Grease, in casks or bbls	4
Granite blocks	4
Groceries, assorted, (not otherwise specified.)	2
Grindstones	4
Grapes, in kegs	1
Guns, rifles, & other fire-arms	1
Gum-copal	2
Gums, (not otherwise specified)	2
Gum-kowrie	3

Articles.	Class.
Gum-shellac, original pack'es	3
Guano; gunny-bags, in bales	4
Hair, in sacks	1
Hair, pressed; hair-rope	2
Hay-bands, (iron or wire,) in b'dl's	4
Hats	1
Hardware	2
Hemp carpet	1
Hemp; hemp machines	2
Herring, in boxes	2
Herring, in kegs	3
Hides, dry, loose	1
Hides, dry, in bales	2
Hides, green	3
Hides, pickled, in casks	4
Household goods, not furniture, well boxed.	1
Hoes; hollow ware; honey	2
Honey, in bbls or casks	3
Hops	2
Hoofs and horns	3
Horse-nails, in boxes or bags	3
Horseshoes, in packages	4
India-rubber goods	1
Indigo; ink, in glass	1
Ink, in casks	2
Iron castings, loose, under 100 lbs., owners' risk.	1
Iron castings, in boxes or casks	2
Iron, hoop and sheet	2
Iron castings, plain, not machinery, over 100 lbs. each.	4
Iron nuts, bolts, washers, and rivets, in boxes or kegs.	3
Iron safes	2
Iron shutters	3
Iron, pig, band, bar, & boiler	4
Iron and coal facings	4
Iron railing; isinglass	2
Iron scraps	4
Joiners' work	1
Junk	3
Jute; jute butts	4
Lampblack, in casks or bbls	2
Lemons, owners' risk	1
Lead, bar or sheet	1
Lead, in casks	4
Lead, bar or sheet, boxed	4
Lead-pipe, in reels or rolls	1
Lead-pipe, in casks	4
Leather, in rolls or boxes	2
Leather, loose	1
Lentels	3
Liquor, in glass, owners' risk	1
Liquor, in wood	1
Lightning-rods	3
Licorice, mass, in boxes	3
Licorice, in stick, root, or mat	2
Licorice, powdered, in bbls	3
Lime, in casks	4
Lime-water, in bbls.; linseed	2
Lithographic stones, owners' risk	2
Looking-glasses, under 3 ft. in length, boxed, owners' risk.	1
Looking-glasses, over 3 ft. in length, owners' risk, released	twice first class.
Looking-glasses, too large to be loaded in box-car, owners' risk, released.	4 times first-class.

Articles.	Class.
Locomotive tyres	4
Lye, concentrated	4
Matresses	twice first-class.
Mats and rugs; machinery, unboxed	1
Machinery, boxed	7
Madder, in boxes, bbls., or kegs	2
Madder, in hhds	3
Marble, wrought, owners' risk	1
Marble, in casks or boxes	2
Marble slabs and blocks, released in rough.	4
Marble-dust	4
Matting, (not otherwise specified)	1
Manilla	3
Mahogany, in board, plank, or scantling	3
Mahogany logs	4
Measures; metallic coffins	1
Mineral waters, in glass	1
Mineral water, in stone jugs, in boxes, or bbls.	2
Milk, condensed	2
Millstones, finished	3
Millstones, in rough	4
Moss, in sacks	1
Moss, pressed in bales	2
Mouldings; musical instru'ts	1
Mustard-seed, in bags or cask	2
Mustard	2
Nails, in bags	2
Nails, in boxes	3
Nails and spikes, in kegs	4
Nail-rods; nitrate soda, in bags	4
Nuts, in single sacks	1
Nuts, in double sacks, casks or bbls	2
Nutmegs	2
Oakum	2
Oil-cloth, in boxes, 12 ft. long and over	1
Oil-cloth, (not otherwise specified)	2
Oil, in glass, owners' risk	1
Oil, in hhds. or bbls	3
Oranges, owners' risk	1
Oysters, fresh, in kegs or cans	1
Oysters, in kegs and cans, pickled, not strapped.	1
Oysters, in kegs and cans, pickled and strapped.	2
Oysters and clams, in shell in bbls., owners' risk.	3
Paintings and pictures, well boxed, contents of each package not exceeding $200 value.	twice first class.
Palm-fibre, in pressed bales	3
Palm-leaves	1
Palm-leaf, pressed	2
Paper-hangings, in b'dl's, owners' risk	1
Paper, printing, not boxed, owners' risk	2
Paper, wrapping, in b'dl's, owners' risk	2
Paper, in boxes	1
Paper-hangings, boxed	2
Paper-stock, bales, compressed	4
Pasteboard	2
Paste, flour, in bbls	4
Paints, in boxes and cans, (not otherwise specified.)	2
Paints, in barrels or casks	4
Peltries	1
Peaches, dried	2
Pepper and spices, in boxes	2
Pepper and spices, in bags	3

Articles.	Class.
Brimstone, in boxes or kegs	2
Brimstone in bbls. or hhds	4
Buffalo robes	1½ first class.
Bungs, wooden, for bbls. & kegs	3
Butter; burlaps	2
Burning-fluid, owners' risk of leakage	1
Burr-blocks	4
Cabinet ware, set up and boxed.	twice 1st class.
Cabinet ware, knocked down and well boxed.	1
Car-springs, (steel,) in bdls. or boxes	3
Carriages & sleighs, boxed or on wheels, too large for box-car.	4 times 1st class (actual weight) released.
Carriages & sleighs, boxed, loaded in box-car.	twice first class.
Carriage springs, boxes, and axles	2
Caps	1
Camphene, owners' risk of leakage	1
Carpeting	1
Carpet-lining	2
Cassia, in mats	1
Cassia, in bags or boxes	2
Cards	1
Castor-oil, in cans or cases	1
Caloric engines; candles	2
Cast-iron grain-mills	2
Car-wheels; car axles	4
Car-springs, (rubber,) loose	2
Car-springs, (rubber,) in boxes or casks	3
Car-springs, (volute,) in boxes	3
Cedar, in board, plank, or scantling,	3
Chairs, matted, or boxed, released.	three times first class.
Chair-stuff, in rough	2
China ware, in boxes	1
China ware, in casks	2
Chain-cotton; woolen & hemp	2
Chains, loose	2
Chains, in casks	3
Chain-cable	4
Cheese, in boxes or casks	2
Chocolate	2
Chicory	3
Chalk	4
Cigars	twice first-class.
Cigars, packed in b'x's, not less than 100 lbs.	twice 1st class.
Cider, in bbls. or hhds	3
Clocks and weights	1
Clover and grass seed	2
Clove-stems, in sacks	2
Clay	4
Cordage; corn-husks	2
Chloride of lime	2
Coffee, roasted	3
Cocoa-nuts	2
Confectionery; coffins	1
Cotton, in square bales	1
Cotton-waste, pressed in bales	2
Cotton-yarn; cotton-waste	1
Corks; covers	1
Cocoa; cocoa-matting	2
Coffee mills; coffee extract	2
Coffee, ground, in bbls. or boxes	2
Coffee, in single sacks, owners' risk	4
Coloring, in wood	2

Articles.	Class.
Copper bottoms	2
Copper and brass vessels in boxes or casks	2
Copper, in plates, sheets, bolts, pigs, wire, nails, and rod.	2
Copperas, in bbls. or boxes	4
Copying-pressess	2
Crackers	1
Cream tartar in bbls. or hhds	3
Cream tartar, in boxes or kegs	2
Crucibles	3
Crockery, in boxes or bbls	2
Currants, in bbls	3
Cutlery	2
Dates	2
Deerskins, in bales	1
Demijohns, owners' risk	twice 1st class.
Dessic'ated meats and vegetables, in cans, boxes.	4
Drums	4 times first class.
Dry-goods, in boxes or bales	1
Domestics — sheetings, tickings, shirtings, denims, in bales or boxes.	1
Drugs and medicines; duck	1
Dye-woods, in stick	3
Dye-woods, in bags or bbls	2
Earth-paints	4
Emery	2
Extract logwood	2
Farm wagons, in pieces	1
Feathers	twice first class.
Fishing poles, in b'dl's, owners' risk, released.	twice 1st class.
Figs, in drums	1
Figs, in casks or boxes	2
Fish, (fresh,) prepaid	1
Fire-crackers	1
Flax-seed; flax, boxed	2
Flour and meal, in bbls.	4
Floor-tiling	4
Forks, hay and manure	2
Fruit, dried, (not otherwise specified)	2
Furs, in bales	twice 1st class.
Furniture, matted or loose, released.	twice first class.
Furniture, set up and boxed,	twice first class.
Furniture, second-hand, well boxed, accompanied by passenger.	1
Furniture, knocked down, well boxed	1
Garden-seeds	1
Gas-fixtures, boxed	2
Gas-pipe, wrought	3
Gambia, in bags or bales	3
Ginger	2
Glass ware	1
Glue	2
Glycerine, crude	3
Grass and clover seed	2
Grass and hemp mats	2
Grease, in casks or bbls	4
Granite blocks	4
Groceries, assorted, (not otherwise specified.)	2
Grindstones	4
Grapes, in kegs	1
Guns, rifles, & other fire-arms	1
Gum-copal	2
Gums, (not otherwise specified)	2
Gum-kowrie	3

Articles.	Class.
Gum-shellac, original pack'es	3
Guano; gunny-bags, in bales	4
Hair, in sacks	1
Hair, pressed; hair-rope	2
Hay-bands, (iron or wire,) in b'dl's	4
Hats	1
Hardware	2
Hemp carpet	1
Hemp; hemp machines	2
Herring, in boxes	2
Herring, in kegs	3
Hides, dry, loose	1
Hides, dry, in bales	2
Hides, green	3
Hides, pickled, in casks	4
Household goods, not furniture, well boxed.	1
Hoes; hollow ware; honey	2
Honey, in bbls or casks	3
Hops	2
Hoofs and horns	3
Horse-nails, in boxes or bags	3
Horseshoes, in packages	4
India-rubber goods	1
Indigo; ink, in glass	1
Ink, in casks	2
Iron castings, loose, under 100 lbs., owners' risk.	1
Iron castings, in boxes or casks	2
Iron, hoop and sheet	2
Iron castings, plain, not machinery, over 100 lbs. each.	4
Iron nuts, bolts, washers, and rivets, in boxes or kegs.	3
Iron safes	2
Iron shutters	3
Iron, pig, band, bar, & boiler	4
Iron and coal facings	4
Iron railing; isinglass	2
Iron scraps	4
Joiners' work	1
Junk	3
Jute; jute butts	4
Lampblack, in casks or bbls	2
Lemons, owners' risk	1
Lead, bar or sheet	1
Lead, in casks	4
Lead, bar or sheet, boxed	4
Lead-pipe, in reels or rolls	1
Lead-pipe, in casks	4
Leather, in rolls or boxes	2
Leather, loose	1
Lentels	3
Liquor, in glass, owners' risk	1
Liquor, in wood	1
Lightning-rods	3
Licorice, mass, in boxes	3
Licorice, in stick, root, or mat	2
Licorice, powdered, in bbls	3
Lime, in casks	4
Lime-water, in bbls.; linseed	2
Lithographic stones, owners' risk	2
Looking-glasses, under 3 ft. in length, boxed, owners' risk.	1
Looking-glasses, over 3 ft. in length, owners' risk, released	twice first class.
Looking-glasses, too large to be loaded in box-car, owners' risk, released.	4 times first-class.

Articles.	Class.
Locomotive tyres	4
Lye, concentrated	4
Matresses	twice first-class.
Mats and rugs; machinery, unboxed	1
Machinery, boxed	7
Madder, in boxes, bbls., or kegs	2
Madder, in hhds	3
Marble, wrought, owners' risk	1
Marble, in casks or boxes	2
Marble slabs and blocks, released in rough.	4
Marble-dust	4
Matting, (not otherwise specified)	1
Manilla	3
Mahogany, in board, plank, or scantling	3
Mahogany logs	4
Measures; metallic coffins	1
Mineral waters, in glass	1
Mineral water, in stone jugs, in boxes, or bbls.	2
Milk, condensed	2
Millstones, finished	3
Millstones, in rough	4
Moss, in sacks	1
Moss, pressed in bales	2
Mouldings; musical instru'ts	1
Mustard-seed, in bags or cask	2
Mustard	2
Nails, in bags	2
Nails, in boxes	3
Nails and spikes, in kegs	4
Nail-rods; nitrate soda, in bags	4
Nuts, in single sacks	1
Nuts, in double sacks, casks or bbls	2
Nutmegs	2
Oakum	2
Oil-cloth, in boxes, 12 ft. long and over	1
Oil-cloth, (not otherwise specified)	2
Oil, in glass, owners' risk	1
Oil, in hhds. or bbls	3
Oranges, owners' risk	1
Oysters, fresh, in kegs or cans	1
Oysters, in kegs and cans, pickled, not strapped.	1
Oysters, in kegs and cans, pickled and strapped.	2
Oysters and clams, in shell in bbls., owners' risk.	3
Paintings and pictures, well boxed, contents of each package not exceeding $200 value.	twice first class.
Palm-fibre, in pressed bales	3
Palm-leaves	1
Palm-leaf, pressed	2
Paper-hangings, in b'dl's, owners' risk	1
Paper, printing, not boxed, owners' risk	2
Paper, wrapping, in b'dl's, owners' risk	2
Paper, in boxes	1
Paper-hangings, boxed	2
Paper-stock, bales, compressed	4
Pasteboard	2
Paste, flour, in bbls	4
Paints, in boxes and cans, (not otherwise specified.)	2
Paints, in barrels or casks	4
Peltries	1
Peaches, dried	2
Pepper and spices, in boxes	2
Pepper and spices, in bags	3

Articles.	Class.
Pill-boxes, in casks or boxes	twice 1st class.
Piano-fortes, owners' risk	1
Pickles, in bbls. or casks	4
Pickles, in cans, boxed	4
Picture-frames	1
Pickles, in glass, owners' risk	1
Pipes; pins, in original boxes	2
Pitch	4
Plate-glass, loaded in box-cars	1
Plate-glass, too large to be loaded in box-car, owners' risk, released.	4 times 1st class.
Plate-glass, too large to be loaded in box-cars, released in car-load lots, estimated at 20,000 lbs.	1
Plaster	4
Plumbago	3
Plumbers' materials, in boxes or casks	2
Porcelain ware, in bbls. or boxes	1
Porcelain ware, in casks or hhds	2
Potash, in boxes or kegs	3
Potash, in bbls. or casks	4
Printing-presses	1
Printed matter, in sheets, boxed	1
Printing-ink, in cans, boxed	1
Printers' ink, in kegs or bbls	2
Preserves, in glass, owners' risk	1
Preserves, in cans, boxes	4
Prunes, in hhds	3
Prunes, in cases, kegs, or bbls	2
Pumice-stone, in casks or boxes	3
Putty	4
Quicksilver, in iron flasks	1
Rattan	1
Rags, in sacks	2
Rags, pressed in bales	4
Raisins, strapped	2
Railroad chairs and spikes	4
Refrigerators	1
Reflectors, released, owners' risk	1
Reflectors, too large to be loaded in box-cars, owners' risk, released.	4 times first class.
Retorts, clay, owners' risk	1
Rigging	4
Roofing, in boxes or rolls	4
Roofing-iron	3
Rosin; rope; rough glass	4
Rubber-clothing	1
Rubber-belting; rubber-hose	2
Rubber-packing	2
Russia bristles	1
Saddlery	2
Sand-paper; sardines	2
Salts, epsom, in bbls	3
Salt; salt-cake; saltpetre	4
Salaratus, in kegs or boxes	4
Sal-soda	4
Scales and scale-beams, not boxed	1
Scales and scale-beams, boxed	2
Scythes, in bales	1
Scythes, in boxes	2
Scythe-stones	3
Scythe-snaths	1
School-slates, boxed	3
Seeds, (not otherwise specified)	2
Sewing-machines, in skeleton boxes or crates, released.	1
Sewing-machines, K. D. and boxed	2
Show-cases	3 times first-class
Sheep and other skins, in bales	1
Sheep-skins, foreign, compressed	2
Shingle-machines	1
Shoe-pegs, in bbls	2
Shoe-blacking, in bbls. or boxes	3
Shovels and spades	2
Shot, in 100 lb. d'ble sack	4
Shot, in bags	2
Shot, in kegs	4
Sieves; sizing	1
Starch, in bbls. or boxes	3
Statuary-marble, released	twice first class.
Statuary-granite; snuff, in jars	1
Snuff, in casks, bbls. or boxes	2
Soap, castile and fancy	2
Soap, common	4
Soda-fountains	1
Soda, in kegs or boxes	4
Split-peas	3
Spelter, in slabs or casks	4
Spirits-turpentine, in bbls., owners' risk	2
Stationery	1
Starch, in boxes or barrels	3
Stone, unwrought	4
Steel, in boxes or bundles	4
Stoves, owners' risk	1
Stove-plate, owners' risk	1
Stove-pipe	1
Stove-polish	3
Steam-boilers, over 30 ft. long.	1 and a half first class.
Steam-boilers, 30 ft. and under	1
Sugars, lemon, grape and maple	2
Sumac	3
Sulphur, in barrels	4
Sweet-potatoes	1
Syrups, (not molasses,) in wood	2
Tallow	3
Tacks, in boxes	2
Tar	4
Tea	1
Telegraph-insulators	4
Terra-japonica	3
Terra-alba, in bbls	4
Tinners' trimmings	2
Tin ware, boxed	1
Tin-foil, in boxes	2
Tile-drain; tow, boxed	2
Toys, boxed	1½ first class.
Tobacco, cut, in bbls. or boxes	1
Tobacco, in bales	1
Tobacco, in boxes and kegs	3
Tobacco, in hhds., unmanf'd	8
Tools, mechanics'	1
Trees and shrubbery, baled, owners' risk.	1½ first class.
Trees and shrubbery, boxed, owners' risk.	1
Trunks; travelling-bags	1
Tubs; twine	1
Type	2
Umbrellas	1
Varnish, owners' risk of leakage	1
Vault-lights	4
Veneering, boxed	2
Veneering, not boxed	1

Articles.	Class.
Vises, iron	2
Vinegar	3
Wagons, children's, not boxed.	twice first class.
Wagons and hobby-horses, boxed.	1½ first class.
Wagons and hobby-horses, knocked down, in boxes or crate.	 1
Wagon felloes and bows	1
Wax; wadding	1
Washing-crystals	4
Water-pipe, wrought	3
Water-pipes, cast iron	4
Weavers' syrup, in bbls	2
Whalebone	1
Wheelbarrows; whips	1
White-lead; whiting	4
Willow ware	twice first class.
Willow reeds, in bundles	2
Wine, in boxes or baskets, owners' risk	1
Wire-rope	4
Wire, (not otherwise specified)	2
Wire-cloth	1
Wire-fencing	2
Wine-bottles, in casks, owners'r isk	4
Window-glass, less than car-loads	3
Window-glass, car-loads	4
Whiskey, domestic, $20 per bbl. valuation,	 4
Wool, domestic, sacked	1½ first-class.
Wood-pulp	
Wool, foreign, pressed	
Woolen yarn	1
Wood-screws, in casks or boxes	2
Wood, in shape, manuf'd	1
Wooden ware	1
Yarn-carpet, pressed in bales	1
Zinc, in rolls or sheets	2
Zinc, (sheet,) in casks or cases	4
Zinc paints	4
SPECIAL CLASS.	
Caustic soda, in iron casks	
Cement	
Coffee, in double bags	
Crockery, earthen, and stone ware, in crates or hhds., owners' risk.	....
Fence-wire	
Fish, pickled, salted	
Lead, pig	
Rice	
Soda-ash; sugar	
Syrup, owners' risk leakage	
Telegraph-wire	
Tin, plate, pig, or bar	
Railroad iron, from Boston, by special contract.	....

Subject to difference in classification, adopted by western roads.
(Endorsed:)
(Signed) JAMES H. MULFORD.

41 *Copy of third draft.*

Exchange for $10,673.24.]

MEMPHIS, TENN., *June 24th*, 1870.

At sight of this first of exchange, (second unpaid,) pay to the order of myself ten thousand six hundred and seventy-three 24 dollars. Value received, and charge to account of—
(Signed) S. M. ANDERSON.

To Mess. GREEN AND TRAVIS, *Boston*.

(Written across the face:) June 29, 1870. GREEN and TRAVIS.

(Endorsed:) S. M. Anderson. 4450.

Pay G. I. Seney, cashier, or order, for collection on account of Merchants' National Bank of Memphis, Tenn.
JNO. J. FREEMAN, *Cashier*.

Pay National Bank of Commerce, or order, for collection by—
G. I. SENEY, *Cashier*.
By H. CHAPIN, J'R.

42 *Copy of third bill of lading.*

MEMPHIS, *June 24th*, 1870.

E. T. Co. Marks and consignee. Received from S. M. Anderson the following packages, (contents unknown,) in apparent good order, viz:

		Weight, subject to correction.
G. T. A. For Green and Travis, Boston, Mass.....	One hundred and eight (108) bales of compressed cotton.....	51,700

Marked and numbered as per margin, to be transported by the Erie Transportation Company and the steamboats, railroad companies, and forwarding lines with which it connects, until the said goods or merchandize shall have reached the point in the bill of lading, on the following terms and conditions, viz:

That the said Erie Transportation Company, and the steamboats, railroad companies, and forwarding lines with which it connects, and which receive said property, shall not be liable for leakage of oils or any kind of liquids, breakage of any kind of glass, earthen, or queens-
43 ware, carboys of acid, or articles packed in glass, stoves and stove furniture, castings, machinery, carriages, furniture, musical instruments of any kind, packages of eggs, or for rust of iron and of iron *and of iron* articles, or for loss or damage by wet, dirt, or fire, or loss of weight, for condition of baling hay, hemp, or cotton, nor for loss or damage of any kind on any article whose bulk requires it to be carried on open cars, nor for damage to perishable property of any kind, occasioned by delay from any cause, or by changes of weather, nor for loss or damage on any article of property whatever by fire or other casualty, while in transit or while in depot or places of trans'hipment or at depot or landing at point of delivery, nor for loss or damage by fire, collision, or the dangers of navigation while on seas, rivers, lakes, or canals. All goods or property under this bill of lading will be subject, at its owner's cost, to necessary cooperage or baling, and is to be transported to the depots of the companies or landings of the steamboats or forwarding lines at the point receipted to for delivery. It is further agreed that the Erie Transportation Company, and the steam-
44 boats, railroads, and forwarding lines with which it connects, shall not be held accountable for any damage or deficiency in packages after the same shall have been receipted for in good order by consignees or their agents, at or by the next carrier beyond the point to which this bill of lading contracts. Consignees are to pay freight and charges upon the goods or merchandize in lots or parts of lots as they may be delivered to them.

It is further stipulated and agreed that in case of any loss, detriment, or damage done to or sustained by any of the property herein receipted for during such transportation whereby any legal liability or responsibility shall or may be incurred, the Erie Transportation Company shall have the full benefit of any insurance that may have been effected upon or on account of said goods.

And it is further agreed that the amount of the loss or damage so accruing, so far as it shall fall upon the carriers above described, shall be computed at the value of the said goods or property at the place and time of shipment under this bill of lading. This contract is executed and accomplished, and liability of the companies as common carriers thereunder ter-

This bill of lading is from Memphis, Tenn., to Boston, Mass. The rate of freight through is to be 70 c'ts per 100, lbs, per bale. per barrel.

45

minates, on the arrival of the goods or property at the landing, station, or depot of delivery; and the companies will be liable as warehousemen only thereafter, and unless removed by the consignee from the station or depot of delivery within twenty-four hours of their said arrival, they be removed and stored by the companies at the owner's expense and risk.

NOTICE.—In accepting this bill of lading, the shipper or other agent of the owner of the property carried expressly accept and agrees to all its stipulations, exceptions, and conditions.

In witness whereof the agent hath affirmed to 3 bills of lading of this tenor and date, one of which being accomplished, the others to stand void.

(Signed) ED. R. HART, *Agent.*

G. T.
A.

(Endorsed:) 100 bales. S. M. Anderson. Green and Travis. S. M. Anderson. June 24th, 1870. Deliver to order Page, Fifield & Co. George Blackburn & Co.

46 The plaintiff then called R. C. DANIELS, who testified as follows:

Reside in Memphis; am president of plaintiff bank; know S. M. Anderson and his handwriting. I know J. J. Freeman, cashier of plaintiff bank, and his handwriting. Know George I. Seney, cashier of Metropolitan National Bank, and the signature of Mr. Chapin. (Shown the three drafts.) I identify handwriting of Anderson and the cashier of plaintiff bank, and of the cashier of Metropolitan National Bank. Amos Woodruff was president at the time I became president, nine months ago.

The plaintiff also called JAMES H. MULFORD, who testified as follows:

James H. Mulford. Business-residence at Memphis; family at New York. These bills were drawn payable to my order. The bills of lading were also taken to my order, and endorsed by me in blank, as these drafts are. They were attached to the drafts and handed into the bank with the bills, and were given for the protection of the bills and for the payment of the drafts. The $\frac{G.\ A.\ T.}{M.}$ 114 bales cotton relates to the
47 cotton. The bills were sold or discounted at a given rate. We always attached the drafts and bills of lading by mucilage. I cannot tell when the cotton was shipped, except by the drafts. It was usually on the day of shipment or the next day that we made the drafts. Cotton generally gets to Boston in from 12 to 30 days—very irregular. The banks prefer drafts after date, because they can fix definitely the time of payment. The bill was for the cost of the cotton and charges. No agreement was made between me and the bank, except the rate of discount; nothing as to what should be done with the bill of lading.

Cross-examination:

The cotton was not shipped to Green and Travis. It was shipped on order. I drew against it. I drew the drafts; they were protested. I have not paid them. I stand as I did on them. In those days we were

allowed to draw before we got the bill of lading. We paid for the cotton first. We paid for the cotton before we got it to the depot. We got the money from the bank, then made out the invoice, got the bill and sent it to the bank, and drew our bill to cover the money we had received. We got our advance on the expectation of the bank
48 that the cotton bill would be drawn.

WILLIAM A. TRAVIS.

Member of late firm of Green and Travis. (Witness shown the three drafts.) The acceptance of the Mulford bills is in my handwriting; on the Anderson draft my partner's. The draft of June 2nd was presented probably in about five days; that is usual course of mail. The messenger of the Bank of Commerce presented them. The bills of lading were attached to the two Mulford drafts by mucilage. Anderson's was pinned. The messenger tore them apart—the bill of lading from the bill of exchange on our accepting the latter. When the cotton came in we received the cotton and sold it. We received it before we failed. We failed 29th June. Before that time we had negociated the bills of lading, and had sold the Mulford cotton. The Anderson draft was accepted June 29th by my partner. That bill of lading was taken to S. A. Way and given him for another bill of lading in pledge. We surrendered the bill of lading of the Anderson cotton to S. A. Way. Judge Smith, the attorney of plaintiffs' bank, paid the $10,000 to Way to take up the bill of lading of the Anderson cotton. (Defend-
49 ants admit plaintiffs paid $10,000 to take up the bill of lading of the Anderson cotton pledged to Way.) The drafts have none of them been paid. We stopped June 29th, owing $160,000. Assets 900 bales of cotton; 500 held by bills of lading. Three months before we stopped we received 5,000 bales of cotton; have since gone into bankruptcy; no assets.

The plaintiff then called C. A. WARNER, who testified as follows:

Am cashier of defendant bank, and was cashier in 1870. I have and produce the three letters of the cashier of the Metropolitan National Bank to defendant bank, in which were enclosed the three drafts and bills of lading attached.

50 *Copies of the three letters.*

METROPOLITAN NATIONAL BANK,
New York, June 7, 1870.

C. H. WARNER, Esq., *Cashier:*

D'R SIR: Your favor of 6 instant is received with enclosures. Enclosed I send for collection bills as stated below.

☞Please return as promptly as possible all unpaid collections.

Respectfully yours,

For G. I. SENEY, *Cashier.*
H. CHAPIN, JR.

Union	371 70	Rogers	5 00
Exchange	540 80	"	603 60
Redemption	284 25	Brooks & Bro	29 84
Old Bost	8	Hamilton & T	198 20
Wash	235 12	Hide & L	640 45
Fanuel H	28 51	Blackstone	761 75

Hawley & Co	17 86	Third	8 57
Rice & D	48 75	Rockland	75
Taunton	2 50	Redemption	16 03
Jenkins L & Sons	26 27	Coffin & Co	825 34
Hill & Co	1,218 22	"	217 24
Wheelock & Co	817 70	Fanuel Hall	150
Green & T	12,107 36	City	312 35
Conant & Co	122 90	Wash	250
Bearse & Co	10 00	Mas	1,500
Taylor & Co	10 00	Redemption	290 20
Liver	81 70		

51 J. E. WILLIAMS, *President.* G. I. SENEY, *Cashier.*

METROPOLITAN NATIONAL BANK,
New York, June 14th, 1870.

C. H. WARNER, Esq., *Cashier :*

D'R SIR: Your favor of 13 instant is received with enclosures.

Please accept our thanks for information received. Enclosed I send for collection bills as stated below.

☞Please return as promptly as possible all unpaid collection.

Respectfully yours,

For G. I. SENEY, *Cashier.*
H. CHAPIN, J'R.

Blackstone	219 96	Boston	206 90
Tremont	62 53	Blackstone	400
Traders'	11 25	Monument	200 69
Atlantic	191 50	Bunker Hill	200
Freeman's	587 50	Green & T	8,802 43
Redemption	25	First	1,327 42
Union	10	Second	957 62
Republic	218 20	Mass	1,500
English S. & Co	93 62	M. & V	2,986
Aldrich & Co	250 00	Shawmut	1,022 68
Keene	512 79	Revere	2,463 99
Whittemore	446 06	Revere	2,069 16
Tremont	100	Traders'	918 72

52 J. E. WILLIAMS, *President.* G. I. SENEY, *Cashier.*

METROPOLITAN NATIONAL BANK,
New York, June 27, 1870.

C. H. WARNER, Esq., *Cashier:*

D'R SIR: Your favor of 25 instant is received with enclosures. Enclosed I send for collection bills as stated below.

Respectfully yours,

For G. I. SENEY, *Cashier.*
H. CHAPIN, J'R.

Conant & Co	505 40	Green & T	10,673 24
Russell	229 12	Skillings & Co	5,000
Commerce	50	Decaster, P. & Co	1,700
Hide & L	47 54	"	4,400
Eliot	10	Blackstone	50
Everett	304 28	Cambridge	250

Cheney, M. & H	120	96	Blackstone	58	87
Fellows	27	33	Redemption	89	
Shaw, L. & Co	164	80	"	150	
Adams, L. & N	200	00	Revere	100	
Redemption	454	50	Commerce	200	
Cushing & Co	189		Faulkner, K. & Co	5,000	
Hall & Co	700		"	4,000	
Morse	65	62	"	5,000	
Alley & Co	215	34	Nichols, P. & D	5,000	
Decaster, P. & Co	1,000		Portland	300	
Suffolk	13	50	"	28	72
Fanuel H	11	50	Revere	18,000	
Revere	223	76	"	75,000	
Hamilton	29	36	Red	2,000	
Shawmut	139	41	Ex	974	31
"	95	87			

53 I have no recollection of bills of lading accompanying these drafts. In the ordinary course of business they would go to the collection clerk under my charge, and are recorded in defendant' books and delivered to messenger to obtain acceptance, and when they come back, they are filed with collection clerk, who is under me, but I do not see them. We have a record in collection clerk's hands.

(The plaintiff also offered the following letter written by cashier of defendant bank to the Metropolitan N. Bank.)

The letter produced is in my handwriting. I believed what I wrote in the letter shown me of June 13th.

Copy of letter.

THE NATIONAL BANK OF COMMERCE OF BOSTON,
Boston, June 13th, 1870.

GEO. I. SENEY, Esq., *Cashier:*

D'R SIR: Mess. Green and Travis have always paid their drafts promptly, but I cannot learn that they have any capital or commercial standing. They are, I think, cotton speculators.

Resp'y, yours,

C. H. WARNER, *Cashier.*

54 To which the defendants objected and the court excluded it. The plaintiff also produced and read the following depositions.

Deposition of Hiram A. Partee.

Int. 1. What is your name, age, residence, and business?

Ans. My name is Hiram A. Partee; age, 50 years; residence, Memphis, Tenn.; book business and real estate.

Int. 2. Were you at any time cashier of the Merchants' National Bank, of Memphis, Tennessee; and, if yea, from what time to what time?

Ans. I was; from Sept. 18th, 1869, to Feb'y 11th, 1870.

Int. 3. State whether you know Mr. James H. Mulford, of said Memphis; and, if yea, state if he had any dealings with said Merchants' Bank while you were said cashier; and, if so, state particularly what dealings he had.

Ans. I do know Ja's H. Mulford. He had dealings with the Mer-

chants' National Bank, of Memphis. They were various bills of
55 exchange drawn against shipments of cotton upon various parties.

Int. 4. State, if you know, what was the credit and financial condition of said Mulford for and during the year previous to your ceasing to act as said cashier?

Ans. He had no apparent means. Was regarded as an honorable man, but had very limited financial credit.

Int. 5. State whether or not you knew Green and Travis, of Boston, Massachusetts; and state whether or not you knew anything concerning their credit and financial standing.

Ans. I knew them from reputation. They had limited means and credit.

Int. 6. State whether or not you knew that the National Bank of Commerce, of said Boston, during the time you were cashier as aforesaid, delivered to said Green and Travis any bill of lading of cotton consigned by said Mulford to order, which bill of lading was indorsed in blank by said Mulford and attached to a bill of exchange drawn by said Mulford on time on said Green and Travis, payable to the order
56 of said Mulford, and by him endorsed in blank to said Merchants' Bank, and by said Merchants' Bank endorsed for collection, and sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection and sent to said Bank of Commerce upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

Ans. I did not.

Int. 7. State whether or not said Mulford, at the time he transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, made any statement or communication, to your knowledge, to said Merchants' Bank in relation to any bargain or agreement which he, said Mulford, had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank or its officers any information as to said Merchants' Bank delivering such bill of lading aforesaid to said Green and Travis upon acceptance of said bill of exchange by said Green and Travis and before payment thereof.

57 Ans. No such statement was made, to my knowledge, by Mulford, to the bank.

Int. 8. State, if you know, whether the said Bank of Memphis' knowledge of the credit and financial standing of said Mulford and said Green and Travis was such that said bank would have delivered, during the year preceeding the time when you ceased to be cashier aforesaid, any bill of lading for cotton, attached to a bill of exchange drawn by said Mulford on said Green and Travis, and endorsed, so attached, to said bank, upon the acceptance, by said Green and Travis, of such bill of exchange before the same was paid.

Ans. As cashier of the bank, I would not, nor do I believe, from the financial standing of the firm of Green and Travis, that any other officer of the bank would have done so.

Int. 9. State whether or not you know S. M. Anderson, of said Memphis; and, if yea, state if you know whether or not he had any dealings with said Merchants' Bank while you were said cashier; and, if so, state particularly what dealings he had.

58 Ans. I know him. We bought bills of exchange drawn against cotton, of him.

Int. 10. State, if you know, what was the credit and financial condi-

tion of said Anderson for and during the year previous to your ceasing to act as cashier aforesaid.

Ans. He had no apparent means. His financial credit limited. He was regarded as an honorable man.

Int. 11. State whether or not you knew that said National Bank of Commerce, during the time you were cashier as aforesaid, delivered to said Green and Travis any bill of lading of cotton consigned by said Anderson to said Green and Travis, attached to a bill of exchange drawn by said Anderson at sight on said Green and Travis, payable to the order of said Anderson, and by him endorsed to said Merchants' Bank, and by said Merchants' Bank endorsed for collection, and sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection and sent to the Bank of Commerce, upon the acceptance of such bill of exchange by said Green and Travis,
59 and before such bill of exchange was paid.

Ans. I did not.

Int. 12. State whether, at the time said Anderson transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, said Anderson made any communication to your said Merchants' Bank in relation to any bargain or agreement which he had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank or its officers, to your knowledge, any information as to said Merchants' Bank delivering such bill of lading aforesaid to said Green and Travis, upon acceptance of said bill of exchange by said Green and Travis, and before payment thereof.

Ans. He did not.

This deposition was taken under commission upon interrogatories, and at the close of plaintiff's interrogatories, before the same were annexed to the commission, the defendant entered an objection in the words following:

60 The defendants object to each of plaintiff's interrogatories as irrelevant, incompetent, and immaterial, and to interrogatory 8th as asking for an opinion upon a matter upon which it is not competent for the witness to express an opinion.

Cross-interrogatories in behalf of defendants:

X-int. 1. Examine the books of the plaintiff bank, and state how many drafts drawn by James H. Mulford upon Green and Travis, of Boston, have been purchased by or discounted by the plaintiff bank. Annex a list of the dates and amounts of all such drafts, and the time upon which each was drawn.

Ans. I have examined the books of the bank. They show the 19 drafts were drawn by Ja's H. Mulford upon Green and Travis, and purchased by the Merchants' National Bank of Memphis. I attach hereto (marked Exhibit A) a schedule of all such drafts, and make the same a part of this answer.

X-int. 2. State how many drafts drawn by S. M. Anderson and Company upon Green and Travis, of Boston, have been purchased or discounted by the plaintiff bank, and annex a list of the dates and
61 amounts and time upon which each was drawn.

Ans. There were 42 drafts drawn by S. M. Anderson and by S. M. Anderson and Company upon Green and Travis, and discounted by plaintiff bank. I attach hereto (marked Exhibit B) a schedule of all such drafts, and make the same a part of this answer.

X-int. 3. Has the plaintiff bank ever discounted or purchased any drafts on Green and Travis except those drawn by James H. Mulford and S. M. Anderson and Company; and, if so, what other drafts, and by whom were they drawn? and give the dates, amounts, and time upon which they were drawn.

Ans. They did not.

X-int. 4. Were all the drafts drawn by Mulford and by Anderson and Company on Green and Travis sent by your bank to the Metropolitan N. Bank of New York; and, if not, to what other bank or individual were they sent?

Ans. All sent to the Metropolitan Nat. Bank of N. Y.

X-int. 5. Do you keep copies of your letters and telegrams to the Metropolitan N. Bank of New York?

62 Ans. Yes, sir.

X-int. 6. Please examine all such letters and telegrams, and state if, at any time, and when, any directions or instructions were given by your bank to said Metropolitan Nat'l Bank to hold the bills of attached to the drafts for the payment of such draft. Annex copies of all correspondence and telegrams containing such instructions or directions.

Ans. I have examined the correspondence, and find no such direction, and do not remember of having given such instructions.

X-int. 7. State if any instructions were given to the Metropolitan N. Bank to have the bill of lading or R. R. receipt attached to a draft drawn Dec. 7th, 1869, by S. M. Anderson and Company for $22,443\frac{66}{100}$ dollars, on said Green and Travis for payment of the draft, and annex copies of correspondence or telegrams containing such instructions.

Ans. I find no such instructions among the correspondence, and have no recollection of it.

X-int. 8. If any such directions or instructions were given con-
63 cerning said draft, or any draft, annex a copy of the letter or telegram containing such instructions.

Ans. None.

X-int. 9. Had the plaintiff bank any other and what correspondent bank in New York except the Metropolitan Nat'l Bank?

Ans. They had none.

X-int. 10. Give the date of the first draft drawn on Green and Travis purchased by plaintiff bank, and the date of the last draft so purchased.

Ans. The first draft is dated the 30th Sept., 1869, for $3,545.88; the last, 24th June, 1870, for $10,673.24.

X-int. 11. What is the amount in the aggregate of all drafts drawn by James H. Mulford on Green and Travis, and purchased or discounted by plaintiff bank?

Ans. $158,354.14.

X-int. 12. What is the amount in the aggregate of all drafts drawn by S. M. Anderson and Company on Green and Travis of Boston and purchased or discounted by plaintiff bank?

Ans. $409,389.85 by S. M. Anderson and by S. M. Anderson & Co.

64 X-int. 13. Whether the plaintiff bank made any enquiries of or through the Metropolitan Bank at any time as to the standing of Green and Travis?

Ans. Do not remember; the correspondence doesn't show.

X-int. 14. If any such enquiries were made, were they made by letter or telegram? and annex copies of such letters or telegram containing such enquiries.

Ans. Don't remember.

X-int. 15. State if any information was received by plaintiff bank from the Metropolitan N. Bank of New York in reply to any such enquiries. If so, state when, and in what way or form, and give copies of any letters or telegrams containing any such information.

Ans. There was none.

X-int. 16. When did you first learn, and how, that the cashier of the defendant bank had written to the Metropolitan N. Bank of New York concerning the standing of Green and Travis, and when first see such letter, or first know that such letter had been written.

Ans. Know nothing of any such letters.

65 X-int. 17. State if any information was ever at any time received by the plaintiff bank from the Metropolitan Nat'l Bank of New York, as to the standing of Green and Travis. If so, when and what was such information? and annex copies of all letters and telegrams containing such information.

Ans. None.

And further deponent saith not.

H. A. PARTEE.

(This deposition was taken under commission upon cross-interrogatories; and, at the close of defendant's cross-interrogatories, before the same were annexed to the commission, the plaintiff entered an objection in the words following:

The plaintiffs object to all and singular, the several interrogatories propounded by defendants to said witness, as irrelevant, incompetent, and immaterial.)

Subscribed and sworn to before me this Nov. 26th, 1872.

[L. S.] M. B. TREZEVANT,
U. S. Commissioner.

65a *Bills purchased by Merchants' National Bank of Memphis from James H. Mulford.*

When taken.	Nos.	Drawer.	Drawee.	Date.	Time.	Amounts.
Nov. 22nd	1400	Jas. H. Mulford.....	Green & Travis.....	Nov. 20th	15 days....	10,941 51
Decb'r 17th 1870.	1426	Jas. H. Mulford.....	Green & Travis.....	Dec. 16th 1870.	20 days....	7,018 08
Jan'y 5th	1450	Jas. H. Mulford.....	Green & Travis.....	Jan'y 5th	20 days....	11,896 98
Feb'y 26th	1487	Jas. H. Mulford.....	Green & Travis.....	Feb'y 26th	24 days....	5,569 93
Mar. 4th	1494	Jas. H. Mulford.....	Green & Travis.....	M'ch 3rd	24 days....	4,110 75
Mar. 19th	1509	Jas. H. Mulford.....	Green & Travis.....	M'ch 19th	24 days....	9,681 96
April 7th	1520	Jas. H. Mulford.....	Green & Travis.....	April 6th	24 days....	3,784 96
April 12th	1529	Jas. H. Mulford.....	Green & Travis.....	April 11th	24 days....	2,440 44
April 14th	1532	Jas. H. Mulford.....	Green & Travis.....	April 14th	24 days....	14,263 68
April 16th	1537	Jas. H. Mulford.....	Green & Travis.....	April 16th	24 days....	8,994 06
April 22d	1541	Jas. H. Mulford.....	Green & Travis.....	April 21st	24 days....	2,377 18
April 27th	1547	Jas. H. Mulford.....	Green & Travis.....	April 26th	15 days....	12,688 39
April 29th	1550	Jas. H. Mulford.....	Green & Travis.....	April 28th	15 days....	11,029 44
April 30th	1555	Jas. H. Mulford.....	Green & Travis.....	April 30th	15 days....	9,480 11
May 2nd	1556	Jas. H. Mulford.....	Green & Travis.....	May 2nd	15 days....	5,711 19
May 6th	1560	Jas. H. Mulford.....	Green & Travis.....	May 5th	15 days....	6,884 73
May 24th	1592	Jas. H. Mulford.....	Green & Travis.....	May 23rd	24 days....	10,570 96
June 3rd	1607	Jas. H. Mulford.....	Green & Travis.....	June 2nd	30 days....	12,107 36
June 9th	1611	Jas. H. Mulford.....	Green & Travis.....	June 7th	30 days....	8,802 33

Exhibit A to H. A. Partee's deposition.

SEAL OF M. B. TREZEVANT, COMMISSIONER. MEMPHIS, SHELBY, CO., TENN.

H. A PARTEE.

65b *Bills purchased by Merchants' National Bank of Memphis of S. M. Anderson and Company and of S. M. Anderson.*

When taken.	Nos.	Drawer.	Drawee.	Dates.	Time.	Amount.
1869.				1869.		
Sep. 30th	1366	S. M. Anderson & Co	Green & Travis	Sept. 30	15 days	3,545 88
Oct. 16th	1380	S. M. Anderson & Co	Green & Travis	Oct. 16	15 days	6,112 95
Nov. 13th	1399	S. M. Anderson & Co	Green & Travis	Nov. 12	18 days	5,716 25
Nov. 26th	1402	S. M. Anderson & Co	Green & Travis	Nov. 26	19 days	11,343 68
Dec. 8th	1413	S. M. Anderson & Co	Green & Travis	Dec. 7	18 days	22,443 66
Dec. 10th	1418	S. M. Anderson & Co	Green & Travis	Dec. 10	18 days	8,137 71
1870.				1870.		
Jan'y 3rd	1449	S. M. Anderson & Co	Green & Travis	Jan'y 3	20 days	11,487 35
Jan'y 15th	1465	S. M. Anderson & Co	Green & Travis	Jan'y 15	20 days	11,964 92
Jan'y 18th	1469	S. M. Anderson & Co	Green & Travis	Jan'y 18	20 days	11,144 85
Feb'y 10th	1480	S. M. Anderson & Co	Green & Travis	Feb'y 9	20 days' sight	11,224 86
Feb'y 24th	1485	S. M. Anderson & Co	Green & Travis	Feb'y 24	20 days' sight	11,056 41
Feb'y 26th	1488	S. M. Anderson & Co	Green & Travis	Feb'y 26	20 days' sight	11,087 28
Mar. 3rd	1493	S. M. Anderson & Co	Green & Travis	Mar. 3	20 days' sight	10,828 25
Mar. 10th	1498	S. M. Anderson & Co	Green & Travis	Mar. 10	30 days	9,618 42
Mar. 26th	1514	S. M. Anderson & Co	Green & Travis	Mar. 26	30 days	7,901 07
April 6th	1519	S. M Anderson & Co	Green & Travis	April 6	30 days	13,695 55
April 8th	1521	S. M. Anderson & Co	Green & Travis	April 8	30 days	5,359 30
April 9th	1525	S. M. Anderson & Co	Green & Travis	April 8	30 days	2,254 22
April 14th	1531	S. M. Anderson & Co	Green & Travis	April 14	30 days	21,576 16
April 15th	1535	S. M. Anderson & Co	Green & Travis	April 15	30 days	3,132 53
April 16th	1538	S. M. Anderson & Co	Green & Travis	April 16	30 days	8,380 26
April 19th	1539	S. M. Anderson & Co	Green & Travis	April 18	30 days	11,024 20
April 21st	1540	S. M. Anderson & Co	Green & Travis	April 21	30 days	10,497 60
April 23rd	1545	S. M. Anderson & Co	Green & Travis	April 23	30 days	11,259 80
April 26th	1546	S. M. Anderson & Co	Green & Travis	April 26	15 days	8,608 52
April 29th	1553	S. M. Anderson & Co	Green & Travis	April 29	15 days	5,523 83
		BILLS OF S. M. ANDERSON.				
May 11th	7175	S. M. Anderson	Green & Travis	May 10	At sight	8,316 40
May 12th	1570	S. M. Anderson	Green & Travis	May 12	20 days' sight	10,115 30
May 14th	1574	S. M. Anderson	Green & Travis	May 14	20 days	8,672 40
May 19th	1582	S. M. Anderson	Green & Travis	May 19	20 days	11,630 56
May 20th	1583	S. M. Anderson	Green & Travis	May 19	30 days	11,660 05
May 20th	1584	S. M. Anderson	Green & Travis	May 19	25 days	11,645 29
May 21st	1586	S. M. Anderson	Green & Travis	May 21	20 days	10,831 05
May 21st	1588	S. M. Anderson	Green & Travis	May 20	25 days	44 60
May 27th	1596	S. M. Anderson	Green & Travis	May 27	30 days	10,629 02
May 28th	1598	S. M. Anderson	Green & Travis	May 28	30 days	10,624 50
May 30th	1601	S. M. Anderson	Green & Travis	May 30	30 days	8,911 47
May 31st	1602	S. M. Anderson	Green & Travis	May 31	30 days	9,411 31
June 2nd	1604	S. M. Anderson	Green & Travis	June 2	30 days	10,739 35
June 3rd	1606	S. M. Anderson	Green & Travis	June 3	30 days	10 237 50
June 8th	1610	S. M. Anderson	Green & Travis	June 7	30 days	10,322 30
June 24th	7450	S. M. Anderson	Green & Travis	June 24	Sight	10,673 24

Exhibit B to H. A. Partee's deposition.

H. A. PARTEE.

{ SEAL OF M. B. TREZEVANT, COMMISSIONER, MEMPHIS, SHELBY CO., TENN. }

66 *Deposition of S. M. Anderson.*

Int. 1. What is your name, age, residence, and business?

Ans. Sam'l M. Anderson; age, 40 years; live in Memphis; am a cotton-buyer.

Int. 2. Do you know Green and Travis, of Boston, Massachusetts?

Ans. I do, sir.

Int. 3. Did you ever make any agreement with Green and Travis, aforesaid, in relation to delivering to said Green and Travis bills of lading of cotton, accompanying bills of exchange, drawn by you on sight, payable to your own order, and by you sold to the Merchants' Bank of Memphis? If yea, state fully what said agreement was; and, if in writing, annex the same hereto.

Ans. Never had any agreement whatever.

Int. 4. Did you ever, prior to June 30th, 1870, inform said Merchants'

Bank of said agreement; and, if so, when and to what officer of
67 said bank? and state fully what was said.

Ans. No agreement of any nature, either verbally or in writing, was ever had with Green and Travis.

Int. 5. State if, on or about June 24th, 1870, you sold and transferred to said Merchants' Bank a bill of exchange drawn by you on said Green and Travis, at sight, for $10,673.34, payable to your own order. If yea, state whether a bill of lading of cotton accompanied the same; and, if you made any statement to said bank concerning said bill of lading, or concerning said Green and Travis, at the time you transferred said bill of exchange and bill of lading to said Merchants' Bank, state fully all that was said.

Ans. I did sell the bank that draft. A bill of lading for cotton accompanied the draft. I made no statement to the bank.

(This deposition was taken under commission upon interrogatories; and, at the close of plaintiff's interrogatories, before the same were annexed to the commission, the defendant entered an objection in
68 the words following: The defendants object to each of the plaintiff's interrogatories as incompetent, irrelevant, and immaterial.)

Cross-interrogatories in behalf of defendant:

X-int. 1. Give the date, and amount, and time of all drafts drawn by you on Green and Travis, of Boston, and the date of the first draft drawn by you, and the date of the last draft upon them.

Ans. I annex a statement hereto, marked Exhibit "C," which shows the dates, amounts, and time, from first to last, of all drafts drawn by me or by the firm of S. M. Anderson and Company upon the firm of Green and Travis.

X int. 2. For what were all these drafts drawn?

Ans. Cotton.

X-int. 3. If for cotton sold to Green and Travis, of Boston, through whom were such sales made? Who acted as your agent for you in making such sales?

Ans. I made no sales to them, but bought cotton for them. E. A. Travis, the brother of the Travis of Green and Travis, was my agent, who solicited the orders from them. I bought upon orders which
69 came directly from them.

X-int. 4. Was not Col. J. J. Baker, of Boston, your agent in Boston to sell cotton for you?

Ans. He was not at that time.

X-int. 5. What were the terms of sale of the cotton to Green and Travis, for which the draft of $10,673.34 was drawn?

Ans. There was no sale. They sent me an order for the cotton for which the draft was drawn.

X-int. 6. Annex copies of all telegrams and letters of your agent, Col. J. J. Baker, to you, and of yourself to him, concerning the sale of cotton for which said draft of June 24th, 1870, was drawn.

Ans. Baker was not my agent at the time.

X-int. 7. Did you dispose of all the drafts drawn by you on Green and Travis to the plaintiff bank; and, if to any other party, to whom?

Ans. All to the Merchants' National Bank.

X-int. 8. What was the amount, in the aggregate, of all the drafts drawn by you on Green and Travis, for cotton sold to them, and
70 disposed of to the plaintiff bank?

Ans. $409,389,85 by me and by the firm of S. M. Anderson & Co.

X-int. 9. Whether or not you requested, at any time, and when, plaintiff bank to make enquiries as to credit of Green and Travis, and whether such enquiries were made, and in what way, and of whom, and when?

Ans. Never did.

X-int. 10. Whether any, and what, information, was received as to their credit, and from whom, and to whom?

Ans. None.

X-int. 11. Were such enquiries made through the Metropolitan N. Bank of New York? If so, when? and if any answer was received, give the reply.

Ans. None made.

X-int. 12. Did you, at any time, make any enquiries as to the credit of Green and Travis; and, if so, of whom, and when?

Ans. I never did.

X-int. 13. Whether or not you drew a draft, payable 18 days
71 from date, on or about December seventh, 1869, on Green and Travis, for the sum of $22,443.66, and disposed of the same to the plaintiff bank?

Ans. This draft was drawn by S. M. Anderson and Company, of which firm I was a member. This firm was dissolved about May 1st, 1870.

X-int. 14. Whether or not you gave any directions to any one, and to whom, to have the bill of lading attached to said draft held until said draft was paid?

Ans. Never gave any instructions.

And further deponent saith not.

S. M. ANDERSON.

(This deposition was taken under commission upon cross-interrogatories, and at the close of defendant's cross-interrogatories, before the same were annexed to the commission, the plaintiff entered an objection, in the words following:

The plaintiffs object to all and singular the several interrogatories propounded by defendant to said witness, as irrelevant and immaterial.)

72 Subscribed and sworn to before me this Nov. 26th, 1872.

[L. S.] M. B. TREZEVANT,
U. S. Commissioner.

72a *Bills purchased by Merchants' National Bank of Memphis from S. M. Anderson and Company and from S. M. Anderson.*

Date taken.	Nos. of bills.	Drawer.	Drawee.	Dates.	Time.	Amount.
1869.						
Sept. 30th	1366	S. M. Anderson & Co	Green & Travis.	Sept. 30	15 days	3,545 88
Oct. 16th	1380	S. M. Anderson & Co	Green & Travis.	Oct. 16	15 days	6,112 95
Nov. 12th	1399	S. M. Anderson & Co	Green & Travis.	Nov. 12	18 days	5,716 25
Nov. 26th	1402	S. M. Anderson & Co	Green & Travis.	Nov. 26	19 days	11,343 68
Dec. 8th	1413	S. M. Anderson & Co	Green & Travis.	Dec. 7	18 days	22,443 66
Dec. 10th	1418	S. M. Anderson & Co	Green & Travis.	Dec. 10	18 days	8,137 71
1870.				1870.		
Jan'y 3d	1449	S. M. Anderson & Co	Green & Travis.	Jan'y 3	20 days	11,487 35
Jan'y 15th	1465	S. M. Anderson & Co	Green & Travis.	Jan'y 15	20 days	11,964 92
Jan'y 18th	1469	S. M. Anderson & Co	Green & Travis.	Jan'y 18	20 days' sight	11,144 85
Feb'y 10th	1480	S. M. Anderson & Co	Green & Travis.	Feb'y 9	20 days' sight	11,224 86
Feb'y 24th	1485	S. M. Anderson & Co	Green & Travis.	Feb'y 24	20 days' sight	11,056 41
Feb'y 26th	1488	S. M. Anderson & Co	Green & Travis.	Feb'y 26	20 days' sight	11,087 28
Mar. 3d	1493	S. M. Anderson & Co	Green & Travis.	Mar. 3	20 days' sight	10,828 25
Mar. 10th	1498	S. M. Anderson & Co	Green & Travis.	Mar. 10	30 days	9,618 42
Mar. 26th	1514	S. M. Anderson & Co	Green & Travis.	Mar. 26	30 days	7,901 07
April 6th	1519	S. M. Anderson & Co	Green & Travis.	April 6	30 days	13,695 55
April 8th	1521	S. M. Anderson & Co	Green & Travis.	April 8	30 days	5,359 30
April 9th	1525	S. M. Anderson & Co	Green & Travis.	April 8	30 days	2,254 22
April 14th	1531	S. M. Anderson & Co	Green & Travis.	April 14	30 days	21,576 16
April 15th	1535	S. M. Anderson & Co	Green & Travis.	April 15	30 days	3,132 53
April 16th	1538	S. M. Anderson & Co	Green & Travis.	April 16	30 days	8,380 26
April 19th	1539	S. M. Anderson & Co	Green & Travis.	April 18	30 days	11,024 20
April 21st	1540	S. M. Anderson & Co	Green & Travis.	April 21	30 days	10,497 60
April 23d	1545	S. M. Anderson & Co	Green & Travis.	April 23	30 days	11,259 80
April 26th	1546	S. M. Anderson & Co	Green & Travis.	April 26	15 days	8,608 52
April 29	1553	S. M. Anderson & Co	Green & Travis.	April 29	15 days	5,523 83
		BILLS DRAWN BY S. M.	ANDERSON.			
May 11th	7175	S. M. Anderson	Green & Travis.	May 10	At sight	8,316 40
May 12th	1570	S. M. Anderson	Green & Travis.	May 12	20 days' sight	10,115 30
May 14th	1574	S. M. Anderson	Green & Travis.	May 14	20 days	8,672 40
May 19th	1582	S. M. Anderson	Green & Travis.	May 19	20 days	11,630 56
May 20th	1583	S. M. Anderson	Green & Travis.	May 19	30 days	11,660 05
May 20th	1584	S. M. Anderson	Green & Travis.	May 19	25 days	11,645 29
May 21st	1586	S. M. Anderson	Green & Travis.	May 21	20 days	10,831 05
May 21st	1588	S. M. Anderson	Green & Travis	May 20	25 days	44 60
May 27th	1596	S. M. Anderson	Green & Travis.	May 27	30 days	10,629 02
May 28th	1598	S. M. Anderson	Green & Travis.	May 28	30 days	10,624 50
May 30th	1601	S. M. Anderson	Green & Travis.	May 30	30 days	8,911 47
May 31st	1602	S. M. Anderson	Green & Travis.	May 31	30 days	9,411 31
June 2d	1604	S. M. Anderson	Green & Travis.	June 2	30 days	20,739 35
June 2d	1606	S. M. Anderson	Green & Travis.	June 3	30 days	10,237 50
June 8	1610	S. M. Anderson	Green & Travis.	June 7	30 days	10,322 30
June 2 4	7450	S. M. Anderson	Green & Travis.	June 24	At sight	10,673 24

Exhibit C to S. M. Anderson's deposition

S. M. ANDERSON.

{SEAL OF M. B. TREZEVANT, COMMISSIONER, MEMPHIS, SHELBY CO., TENN.}

73 *Deposition of Amos Woodruff.*

Int. 1. What is your name, age, residence, and business?

Ans. My name is Amos Woodruff; age, 52; live in Memphis, and am a merchant.

Int. 2. Were you at any time an officer of the Merchants' National Bank of Memphis, Tennessee; and, if yea, what office or offices in said bank have you held, and from what time to what time?

Ans. I was president of the Merchants' National Bank from Feb'y 1st, 1870, until April, 1872.

Int. 3. State whether you know Mr. James H. Mulford, of said Memphis; and, if yea, state if he had any dealings with said Merchants' Bank prior to the first day of July, 1870, while you held said office or offices in said bank; and, if so, state particularly what dealings he had.

Ans. I am acquainted with James H. Mulford of Memphis, Tennessee. He had dealings with the Merchants' National Bank, while I was
74 president of said bank. His dealings were selling us bills of exchange on various persons, drawn against shipments of cotton.

Int. 4. State, if you know, what was the credit and financial standing of said Mulford, while he had said dealings with said bank, prior to said first day of July, 1870?

Ans. He was considered a fair and honorable merchant; was a good judge of cotton, but had no financial credit outside of the cotton sent forward to protect his bills of exchange.

Int. 5. State whether or not you knew Green and Travis, of Boston, Massachusetts, and state whether or not, while you held said office or offices in said bank, you knew anything concerning the credit and financial standing of said Green and Travis.

Ans. I never knew Green and Travis (personally) of Boston, Mass., and knew but little of their financial standing.

Int. 6. State whether or not you knew that the National Bank of Commerce, of said Boston, prior to said first day of July, 1870, and
75 while you held said office or offices in said Merchants' Bank, delivered to said Green and Travis any bill of lading of cotton consigned by said Mulford to order, which bill of lading was indorsed in blank by said Mulford and attached to a bill of exchange drawn by said Mulford on time, on said Green and Travis, payable to the order of said Mulford, and by him endorsed in blank to said Merchants' Bank, and by said Merchants' Bank endorsed for collection, and by said Merchants' Bank sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection, and sent to said Bank of Commerce with such bill of lading attached thereto, upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

Ans. I did not know that the National Bank of Commerce of Boston delivered any bill of lading to Green and Travis, when they accepting the bill of exchange; on the contrary, I supposed that the bills of lading were held until the drafts were paid. I did not know who the Metropolitan Nat. Bank sent these bills to for collection.

Int. 7. State whether or not said Mulford, at the time he trans-
76 ferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, made any statement or communication, to your knowledge, to said Merchants' Bank, or any of its officers, in relation to any bargain or agreement which he, said Mulford, had with said Green and Travis, in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank or its officers any information as to said Merchants' Bank delivering such bill of lading aforesaid to said Green and Travis, upon acceptance of said bill of exchange by said Green and Travis and before payment thereof.

Ans. Mr. Mulford never made any statement to me, or to any officer of the Merchants' National Bank, that I have knowledge of, of any bargain or agreement with Green and Travis, to deliver to them the bills of lading, upon their accepting the bills of exchange.

Int. 8. State, if you know, whether the said Merchants' Bank's knowledge of the credit and financial standing of said Mulford and said
77 Green and Travis was such that said bank would have delivered, prior to the thirtieth day of June, 1870, and while you held said office or offices in said bank, any bill of lading for cotton attached to a bill of exchange, drawn by said Mulford on said Green and Travis, and en-

dorsed so attached to said bank, upon the acceptance by said Green and Travis of such bill of exchange, before the same was paid.

Ans. My knowledge of the credit and financial standing of the said Mulford and the said Green and Travis was such that the Merchants' National Bank would not have delivered bills of lading for cotton, attached to a bill of exchange, drawn by said Mulford on the said Green and Travis, when accepted by them, until the same had been paid.

Int. 9. State whether or not you know S. M. Anderson of said Memphis; and, if yea, state, if you know, whether or not he had any dealings with said Merchants' Bank prior to June thirtieth, 1870, and while you held said office or offices in said bank; and, if so, state particularly what dealings he had.

78 Ans. I know S. M. Anderson, of Memphis. He had dealings with the Merchants' National Bank while I was president of the same. His business with said bank was selling us bills of exchange drawn against shipments of cotton.

Int. 10. State, if you know, what was the credit and financial standing of said Anderson prior to said June 30th, 1870, during the time you held said office or offices in said bank?

Ans. The credit and financial standing of S. M. Anderson was very low.

Int. 11. State whether or not you knew that said Bank of Commerce, prior to said June 30th, 1870, while you held said office or offices in said bank, delivered to said Green and Travis any bill of lading of cotton consigned by said Anderson to said Green and Travis, attached to a bill of exchange drawn by said Anderson at sight on said Green and Travis, payable to the order of said Anderson, and by him endorsed to said Merchants' Bank, and by said Merchants' Bank endorsed for

79 collection, and by said Merchants' Bank sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection, and sent to said Bank of Commerce, upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

Ans. I did not know that the National Bank of Commerce delivered to Green and Travis any bills of lading for cotton, consigned by said Anderson to said Green and Travis, until the bills of exchange attached to each bill of lading was paid.

Int. 12. State whether at the time said Anderson transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, said Anderson made any communication to said Merchants' Bank in relation to any bargain or agreement which he had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank or its officers, to your knowledge, any information as to said Merchants' Bank delivering such bill of lading aforesaid to said Green and Travis upon acceptance of said bill of exchange by said Green and Travis, and before payment thereof.

80 Ans. Mr. Anderson made no statement to me of any bargain or agreement with Green and Travis, whereby they were to receive the bills of lading for the cotton shipped, upon their accepting the bills of exchange drawn against said cotton, and I never knew of any officer of the Merchant's National Bank having such information.

Int. 13. State whether you remember that said Mulford, on or about June seventh, 1870, sold to said Merchant's Bank his bill of exchange for $8,802.43, drawn by said Mulford on Mess. Green and Travis, of Boston, Mass., payable in thirty days from its date, said seventh of June,

1870, against 89 bales of cotton marked $\frac{G.\ A.\ T.}{M.\ G.}$, payable to the order of said Mulford. If yea, state whether the bill of lading of said cotton was attached to said bill of exchange at the time said Merchant's Bank bought said bill of exchange; and, if so, state how the same was attached, and if said Mulford said anything about said bill of lading, or concerning said Green and Travis, at that time; state freely all that he said; and, if you remember that said Mulford, on or about June
81 second, 1780, sold to said Merchants' Bank his bill of exchange for $12,107.36, drawn by said Mulford on Messrs. Green and Travis, of Boston, Mass., payable in thirty days from its date, said second day of June, 1870, against 114 bales of cotton marked $\frac{G.\ A.\ T.}{M.}$, payable to the order of said Mulford, state whether the bill of lading for said cotton was attached to said bill of exchange at the time said Merchants' Bank bought said bill of exchange; and if so, state how the same was attached, and if said Mulford said anything about said bill of lading, or concerning said Green and Travis at that time. State fully all that he said.

Ans. I was in New York, or on my way there, when the bank bought the particular bills referred to.

Int. 14. State if you were present when S. M. Anderson transferred to said Merchants' Bank his bill of exchange dated June 24th, 1870, drawn by him at sight, for $10,673.24, on Messrs. Green and Travis, of Boston, payable to the order of said Anderson, and by him endorsed in blank. If yea, state, if you know, whether said Bank became the
82 owner of said bill of exchange, whether a bill of lading accompanied or was attached to said bill of exchange, and whether said Merchants' Bank became the owner of said bill of lading and of the bales of cotton mentioned therein; and if said Anderson said anything about said bill of lading or concerning said Green and Travis. State fully all that he said.

Ans. I was in New York at that time.

(This deposition was taken under commissioner upon interrogatories, and, at the close of plaintiff's interrogatories, before the same were annexed to the commission, the defendant entered an objection in the words following: The defendant objects to all the plaintiff's interrogations as irrelevant, incompetent, and immateral, and to interrogatory 8th, as asking for an opinion upon a matter upon which it is not competent for the witness to express an opinion.)

Cross-interrogatories in behalf of defendants:

83 X-int. 1. Examine the books of the plaintiff bank and state how many drafts drawn by James H. Mulford upon Green and Travis, of Boston, have been purchased by or discounted by the plaintiff bank. Annex a list of the dates and amounts of all such drafts and the time upon which each was drawn.

Ans. The annexed statement, marked exhibit F, contains a list and dates and amounts of all drafts drawn by Mulford on Green and Travis and bought by the Merchants' National Bank, and I make said exhibit a part of this answer.

X-2. State how many drafts drawn by S. M. Anderson and Company upon Green and Travis, of Boston, have been purchased or discounted by the plaintiff bank, and annex a list of the dates and amounts and time upon which each was drawn.

Ans. The annexed statement, marked Exhibit G, contains a full list of all such drafts, their amount and dates. I also make same a part of this answer.

X-int. 3. Has the plaintiff bank ever discounted or pur-
84 chased any drafts on Green and Travis except those drawn by James H. Mulford and S. M. Anderson and Company; and, if so, what other drafts, and by whom were they drawn, and give the dates, amounts, and time upon which they were drawn.

Ans. None to my knowledge.

X-int. 4. Were all the drafts drawn by Mulford and by Anderson and Company on Green and Travis sent by your bank to the Metropolitan N. Bank of New York; and, if not, to what other bank or individual were they sent?

Ans. All sent to the Metropolitan National Bank of N. Y.

X-int. 5. Do you keep copies of your letters and telegrams to the Metropolitan N. Bank of New York?

Ans. We generally keep copies; but not always.

X-int. 6. Please examine all such letters and telegrams, and state if at any time, and when, any directions or instructions were given by your bank to said Metropolitan Nat'l Bank to hold the bills of lading attached to the drafts for the payment of such draft. Annex copies of all correspondence, and telegrams containing such instruct-
85 ions or directions.

Ans. I have examined the correspondence, and find no such instructions. I never did give such instructions.

X-int. 7. State if any instructions were given to the Metropolitan N. Bank to have the bill of lading or R. R. receipt attached to a draft drawn Dec. 7, 1869, by S. M. Anderson and Company, for 22,443 $\frac{66}{100}$ dollars on said Green and Travis, for payment of the draft, and annex copies of correspondence or telegrams containing such instructions.

Ans. I was not president at that time.

X-int. 8. If any such directions or instructions were given concerning said draft or any draft, annex a copy of the letter or telegram containing such instructions.

Ans. I was not president at that time and know of no such instructions.

X-int. 9. Had the plaintiff bank any other and what correspondent bank in New York except the Metropolitan Bank?

Ans. Had no other.

86 X-int. 10. Give the date of the first draft drawn on Green and Travis purchased by plaintiff bank, and the date of the last draft so purchased?

Ans. The Exhibits G and F will answer this question.

X-int. 11. What is the amount in the aggregate of all drafts drawn by James H. Mulford on Green and Travis, and purchased or discounted by plaintiff bank?

Ans. $158,354.14.

X-int. 12. What is the amount in the aggregate of all drafts drawn by S. M. Anderson and Company, on Green and Travis, of Boston, and purchased or discounted by plaintiff bank.

Ans. 409,389.85 by S. M. Anderson and S. M. Anderson and Company.

X-int. 13. Whether the plaintiff bank made any enquiries of or through the Metropolitan Bank at any time as to the standing of Green and Travis?

Ans. It did.

X-int. 14. If any such enquiries were make, were they made by letter or telegram, and annex copies of such letters or telegrams containing such enquiries?

87 Ans. By me in person, while in New York, and verbally.

X-int. 15. State if any information was received by plaintiff bank from the Metropolitan N. Bank of New York in reply to any such enquiries. If so, state when and in what way or form, and give copies of any letters or telegrams containing any such information.

Ans. I was in New York in June, 1870, when I requested the cashier of the Metropolitan National Bank to make enquiries as to the financial standing of Green and Travis, of Boston. A few days afterwards, and about the middle of that month, I called again at the Metropolitan Bank; the cashier, Geo. I. Seney, then showed me a letter he had just received from the cashier of the National Bank of Commerce, Boston, giving the financial standing of Green and Travis. I have not that letter in my possession, so am unable to produce a copy of the same.

X-int. 16. When did you first learn, and how, that the cashier of the defendant bank had written to the Metropolitan N. Bank of New York, concerning the standing of Green and Travis, and when first see or first know that such letter had been written?

88 Ans. I refer to the foregoing answer No. 15 for answer to this interrogatory.

X-int. 17. State if any information was ever at any time received by the plaintiff bank from the Metropolitan Nat*h*'l Bank of New York as to the standing of Green and Travis. If so, when and what was such information. Annex copies of all letters and telegrams containing such information.

Ans. The only information I ever received from the Metropolitan National Bank in reference to the financial standing of Green and Travis was in the month of June, 1870, as set forth in my answer to X-int. No. 15. The information then received was to the effect that Green and Travis had but little capital in their business, and were regarded as speculators.

And further deponent saith not.

AMOS WOODRUFF.

(This deposition was taken under commission upon cross-interrogatories; and, at the close of defendant's cross-interrogatories, before the same were annexed to the commission, the plaintiff entered an objection in the words following:

89 The plaintiff objects to all and singular the several interrogatories propounded by defendant to said witness as irrelevant, incompetent, and immaterial.)

Subscribed and sworn to before me this Nov. 26th, 1872.

[L. S.] M. B. TREZEVANT,
U. S. Commissioner.

89a *Bills purchased by Merchant's National Bank of Memphis from James H. Mulford.*

Date taken.	Nos.	Drawer.	Drawee.	Date.	Time.	Amount.
1869.						
Nov. 22nd	1400	Ja's H. Mulford.....	Green & Travis.	Nov. 20	15 days.....	10,941 51
Dec. 17th	1426	Ja's H. Mulford.....	Green & Travis.	Dec. 16	20 days.....	7,018 08
1870.				1870.		
Jan'y 5th	1450	Ja's H. Mulford.....	Green & Travis.	Jan'y 5	20 days.....	11,896 98
Feb'y 26th	1487	Ja's H. Mulford.....	Green & Travis.	Feb'y 26	24 days.....	5,569 93
Mar. 4th	1494	Ja's H. Mulford.....	Green & Travis.	Mar. 3	24 days.....	4,110 75
Mar. 19th	1509	Ja's H. Mulford.....	Green & Travis.	Mar. 19	24 days.....	9,681 96
April 7th	1520	Ja's H. Mulford.....	Green & Travis.	April 6	24 days.....	3,784 96
April 12th	1529	Ja's H. Mulford.....	Green & Travis.	April 11	24 days.....	2,440 44
April 14th	1532	Ja's H. Mulford.....	Green & Travis.	April 14	24 days.....	14,263 68
April 16th	1537	Ja's H. Mulford.....	Green & Travis.	April 16	24 days	8,994 06
April 22d	1541	Ja's H. Mulford.....	Green & Travis.	April 21	24 days.....	2,377 18
April 27th	1547	Ja's H. Mulford.....	Green & Travis.	April 26	15 days.....	12,688 39
April 29th	1550	Ja's H. Mulford.....	Green & Travis.	April 28	15 days.....	11,029 44
April 30th	1555	Ja's H. Mulford.....	Green & Travis.	April 30	15 days.....	9,480 11
May 2d	1556	Ja's H. Mulford.....	Green & Travis.	May 2	15 days.....	5,711 19
May 6th	1560	Ja's H. Mulford.....	Green & Travis.	May 5	15 days.....	6,884 73
May 24th	1592	Ja's H. Mulford.....	Green & Travis.	May 23	24 days.....	10,570 96
June 3d	1607	Ja's H. Mulford.....	Green & Travis.	June 2	30 days.....	12,107 36
June 9th	1611	Ja's H. Mulford.....	Green & Travis.	June 7	30 days.....	8,802 43

Exhibit "F" to Amos Woodruff deposition.
[SEAL OF M. B. TREZEVANT, COMMISSIONER, MEMPHIS. SHELBY CO., TENN.] AMOS WOODRUFF.

89b *Bills purchased by Merchants' National Bank of Memphis, of S. M. Anderson and Company, and of S. M. Anderson.*

When taken.	Nos.	Drawer.	Drawee.	Dates.	Time.	Amount.
1869.				1869.		
Sept. 30th	1366	S. M. Anderson & Co....	Green & Travis	Sept. 30	15 days.....	3,545 88
Oct. 16th	1380	S. M. Anderson & Co....	Green & Travis	Oct. 16	15 days.....	6,112 95
Nov. 13th	1399	S. M. Anderson & Co....	Green & Travis	Nov. 12	18 days.....	5,716 25
Nov. 26th	1402	S. M. Anderson & Co....	Green & Travis	Nov. 26	19 days.....	11,343 68
Dec. 8th	1413	S. M. Anderson & Co....	Green & Travis	Dec. 7	18 days.....	22,443 66
Dec. 10th	1418	S. M. Anderson & Co....	Green & Travis	Dec. 10	18 days.....	8,137 71
1870.				1870.		
Jan'y 3d	1449	S. M. Anderson & Co....	Green & Travis	Jan'y 3	20 days.....	11,487 35
Jan'y 15th	1465	S. M. Anderson & Co....	Green & Travis	Jan'y 15	20 days.....	11,964 92
Jan'y 18th	1469	S. M. Anderson & Co....	Green & Travis	Jan'y 18	20 days' sight....	11,144 85
Feb'y 10th	1480	S. M. Anderson & Co....	Green & Travis	Feb'y 9	20 days' sight....	11,224 86
Feb'y 24th	1485	S. M. Anderson & Co....	Green & Travis	Feb'y 24th	20 days' sight....	11,056 41
Feb'y 26th	1488	S. M. Anderson & Co....	Green & Travis	Feb'y 26	20 days' sight....	11,087 28
Mar. 3d	1493	S. M. Anderson & Co....	Green & Travis	Mar. 3	20 days' sight....	10,828 25
Mar. 10th	1498	S. M. Anderson & Co....	Green & Travis	Mar. 10	30 days.....	9,618 42
Mar. 26th	1514	S. M. Anderson & Co....	Green & Travis	Mar. 26	30 days.....	7,901 07
April 6th	1519	S. M. Anderson & Co....	Green & Travis	April 6	30 days.....	13,695 55
April 8th	1521	S. M. Anderson & Co....	Green & Travis	April 8	30 days.....	5,359 30
April 9th	1525	S. M. Anderson & Co....	Green & Travis	April 8	30 days.....	2,254 22
April 14th	1531	S. M. Anderson & Co....	Green & Travis	April 14	30 days.....	21,576 16
April 15th	1535	S. M. Anderson & Co....	Green & Travis	April 15	30 days.....	3,132 53
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April 19th	1539	S. M. Anderson & Co....	Green & Travis	April 18	30 days.....	11,024 20
April 21st	1540	S. M. Anderson & Co....	Green & Travis	April 21	30 days.....	10,497 60
April 23d	1545	S. M. Anderson & Co....	Green & Travis	April 23	30 days.....	11,259 80
April 26th	1546	S. M. Anderson & Co....	Green & Travis	April 26	15 days.....	8,608 52
April 29th	1553	S. M. Anderson & Co....	Green & Travis	April 29	15 days.....	5,523 83
		BILLS OF S. M. ANDERSON.				
May 11th	7175	S. M. Anderson	Green & Travis	May 10th	At sight.....	8,316 40
May 12th	1570	S. M. Anderson	Green & Travis	May 12	20 days' sight....	10,115 30
May 14th	1574	S. M. Anderson	Green & Travis	May 14	20 days.....	8,672 40
May 19th	1582	S. M. Anderson	Green & Travis	May 19	20 days.....	11,630 56
May 20th	1583	S. M. Anderson	Green & Travis	May 19	30 days.....	11,660 05
May 20th	1584	S. M. Anderson	Green & Travis	May 19	25 days.....	11,645 29
May 21st	1586	S. M. Anderson	Green & Travis	May 21	20 days.....	10,831 35
May 21st	1588	S. M. Anderson	Green & Travis	May 20	25 days.....	44 60
May 27th	1596	S. M. Anderson	Green & Travis	May 27	30 days.....	10,629 02
May 28th	1598	S. M. Anderson	Green & Travis	May 28	30 days.....	10,624 50
May 30th	1601	S. M. Anderson	Green & Travis	May 30	30 days.....	8,911 47
May 31st	1602	S. M. Anderson	Green & Travis	May 31	30 days.....	9,411 31
June 2d	1604	S. M. Anderson	Green & Travis	June 2	30 days.....	10,739 35
June 3d	1606	S. M. Anderson	Green & Travis	June 3d	30 days.....	10,237 50
June 8th	1610	S. M. Anderson	Green & Travis	June 7	30 days.....	10,322 30
June 24th	7450	S. M. Anderson	Green & Travis	June 24	At sight.....	10,673 24

Exhibit G to Amos Woodruff's deposition.
[SEAL OF M. B. TREZEVANT, COMMISSIONER, MEMPHIS, SHELBY CO., TENN.] AMOS WOODRUFF.

90 *Deposition of John J. Freeman.*

Int. 1. What is your name, age, residence, and business?

Ans. My name is John J. Freeman. Am 39 years of age, and am in the banking business.

Int. 2. Were you at any time an officer of the Merchants' National Bank of Memphis, Tennessee; and, if yea, what office or offices in said bank have you held, and from what time to what time?

Ans. I was. I have been connected with the bank as teller, asst. cashier, and cashier since its organization in 1865, having been appointed asst. cashier on the 6th of Oct., 1868, which position I filled until the 11th of Feb'y, 1870, at which time I was appointed cashier, and have filled the latter office up to the present time.

Int. 3. State whether you know Mr. James H. Mulford, of said Memphis; and, if yea, state if he had any dealings with said Merchants' Bank prior to the first day of July, 1870, while you held said office
91 or offices in said bank; and, if so, state particularly what dealings he had.

Ans. I know him. He did; which dealings consisted in the sale of bills of exchange, known a' cotton bills, which he drew against consignments of cotton to parties in eastern cities.

Int. 4. State, if you know, what was the credit and financial standing of said Mulford, while he had said dealings with said bank, prior to said first day of July, 1870?

Ans. Mr. Mulford was a man in good standing as to character, but was understood to have little or no means of his own. He had but limited personal credit, and could not have obtained money from the bank, except upon security.

In 1.5. State whether or not you knew Green and Travis, of Boston, Massachusetts; and state whether or not, while you held said office or offices in said bank, you knew anything concerning the credit and financial standing of said Green and Travis?

Ans. I knew them only through business intercourse. I was informed by the parties in Memphis who made the purchases for them, that
92 they were men of limited means and credit. I mean small means and credit, but in fair standing, acting as cotton-brokers, for purchasers in the East.

Int. 6. State whether or not you knew that the National Bank of Commerce of said Boston, prior to said first day of July, 1870, and while you held said office or offices in said Merchants' Bank, delivered to said Green and Travis any bill of lading of cotton consigned by said Mulford to order, which bill of lading was indorsed in blank by said Mulford, and attached to a bill of exchange drawn by said Mulford on time, on said Green and Travis, payable to the order of said Mulford, and by him endorsed in blank to said Merchants' Bank, and by said Merchants' Bank endorsed for collection, and by said Merchants' Bank sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection and sent to said Bank of Commerce with such bill of lading attached thereto, upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

93 Ans. I did not; and never had any intimation of anything of the kind.

Int. 7. State whether or not said Mulford, at the time he transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis made any statement or communication, to your knowl-

edge, to said Merchants' Bank, or to any of its officers, in relation to any bargain or agreement which he, said Mulford, had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank or its officers any information as to said Merchants' Bank, delivering such bill of lading aforesaid to said Green and Travis, upon acceptance of said bill of exchange by said Green and Travis, and before payment thereof.

Ans. He did not; nor did I ever hear of any such bargain or agreement in connection with the taking of any such bills.

Int. 8. State, if you know, whether the said Merchants' Bank's knowledge of the credit and financial standing of said Mulford and said
94 Green and Travis was such that said bank would have delivered, prior to the thirtieth day of June, 1870, and while you held said office or offices in said bank, any bill of lading for cotton attached to a bill of exchange drawn by said Mulford on said Green and Travis, and indorsed so attached to said bank, upon the acceptance by said Green and Travis of such bill of exchange before the same was paid.

Ans. It would not have done so. These bills were taken upon the faith of the bills of lading and not upon the credit of either the drawer or drawees.

Int. 9. State whether or not you know S. M. Anderson, of said Memphis; and, if yea, state, if you know, whether or not he had any dealings with said Merchants' Bank, prior to June thirtieth, 1870, and while you held such office or offices in said bank; and, if so, state particularly what dealings he had.

Ans. I did know him. His dealings with our bank were of a similar character with those with Mulford, as set forth in my answer to Int. 3.

95 Int. 10. State, if you know, what was the credit and financial standing of said Anderson, prior to said June 30th, 1870, during the time you held said office or offices in said bank.

Ans. He had no credit; being insolvent at the time.

Int. 11. State whether or not you knew that said Bank of Commerce, prior to said June 30th, 1870, while you held said office or offices in said bank, delivered to said Green and Travis any bill of lading of cotton consigned by said Anderson to said Green and Travis, attached to a bill of exchange drawn by said Anderson at sight on said Green and Travis, payable to the order of said Anderson, and by him endorsed to said Merchants' Bank, and by said Merchants' Bank endorsed for collection, and by said Merchants' Bank sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection and sent to said Bank of Commerce, upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

Ans. I did not.

96 Int. 12. State whether at the time said Anderson transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, said Anderson made any communication to said Merchants' Bank in relation to any bargain or agreement which he had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank or its officers, to your knowledge, any information as to said Merchants' Bank delivering such bill of lading aforesaid to said Green and Travis upon acceptance of said bill of exchange by said Green and Travis, and before payment thereof.

Ans. He did not, nor did he ever intimate the existence of any such bargain or agreement.

Int. 13. State whether you remember that said Mulford, on or about June seventh, 1870, sold to said Merchants' Bank his bill of exchange for $8,802.43, drawn by said Mulford on Messrs. Green and Travis, of Boston, Mass., payable in thirty days from its date, said seventh of June, 1870, against 89 bales of cotton, marked $\frac{\text{G. A. T.}}{\text{M. G.}}$, payable to the
97 order of said Mulford. If yea, state whether the bill of lading of said cotton was attached to said bill of exchange at the time said Merchants' Bank bought said bill of exchange; and if so, state how the same was attached, and if said Mulford said anything about said bill of lading, or concerning said Green and Travis at that time. State fully all that he said; and, if you remember that said Mulford, on or about June second, 1870, sold to said Merchants' Bank his bill of exchange for $12,107.36, drawn by said Mulford on Messrs. Green and Travis, of Boston, Mass., payable in thirty days from its date, said second of June, 1870, against 114 bales of cotton, marked $\frac{\text{G. A. T.}}{\text{M.}}$, payable to the order of said Mulford. State whether the bill of lading for said cotton was attached to said bill of exchange, at the time said Merchants' Bank bought said bill of exchange; and, if so, state how the same was attached; and, if said Mulford said anything about said bill of lading or concerning said Green and Travis at that time, state fully all that he said.

Ans. He did sell such bill of exchange to the Merchants' National Bank of Memphis, to wit, for $8,802.43, drawn against 89 bales of
98 cotton, marked $\frac{\text{G. A. T.}}{\text{M. G.}}$ It was so attached, by being pasted to said bill of exchange with mucilage. There was no special conversation that occur'ed upon the subject, as it was not an unusual thing. He left the bill of lading and the bill of exhange, and had the proceeds entered to his credit. There was nothing said about Green and Travis at the time, within my recollection, the bank having frequently taken Mulford's bills on Green and Travis, and the credit was entered up the usual course of business, without the particular merits of the case being discussed. I do remember that the said Mulford sold to the Merchants' National Bank the other draft mentioned in the int., to wit, for $12,107.36, drawn against 114 bales of cotton, marked $\frac{\text{G. A. T.}}{\text{M.}}$ The bill of lading was attached to the draft in the same manner as the other draft described above. Nothing was said any more than as stated in regard to the first draft.

Int. 14. State if you were present when S. M. Anderson transferred to said Merchants' Bank his bill of exchange, dated June 24th, 1870, drawn by him at sight, for $10,673.24, on Messrs. Green and
99 Travis, of Boston, payable to the order of said Anderson, and by him endorsed in blank. If yea, state if you know whether said Bank became the owner of said bill of exchange; whether a bill of lading accompanied or was attached to said bill of exchange, and whether said Merchants' Bank became the owner of said bill of lading and of the bales of cotton mentioned therein; and, if said Anderson said anything about said bill of lading or concerning said Green and Travis, state fully all that he said.

Ans. I was present when said Anderson transferred the bill of exchange mentioned in the int. The bank did become the owner of said bill of exchange. A bill of lading did accompany, and was attached to,

said draft, and the bank became the owner of the said bill of lading, and of the cotton mentioned in it. Anderson did not say anything unusual about either the bill of lading or the consignees, Green and Travis. The bill of lading was attached to the bill of exchange with a pin. When I say that nothing unusual was said, I mean that nothing was said by Anderson about the bill of lading or about Green
100 and Travis, but he simply handed in the exchange, with the bill of lading, to be entered to his credit.

JNO. J. FREEMAN.

(This deposition was taken under commission upon interrogatories; and, at the close of plaintiff's interrogatories, before the same were annexed to the commission, the defendant entered an objection in the words following:

The defendant objects to all the plaintiff's interrogatories as irrelevant, incompetent, and immaterial; and to interrogatory 8th as asking for an opinion upon a matter upon which it is not competent for the witness to express an opinion.)

No cross-interrogatories.

Subscribed and sworn to before me this Nov. 26th, 1872.

[L. S.] M. B. TREZEVANT,
U. S. Commissioner.

101 *Deposition of William H. Cherry.*

Int. 1. What is your name, age, residence, and business? and, if at any time you were president of the Merchants' National Bank of Memphis, Tennessee, state from what time to what time you were such president.

Ans. My name is William H. Cherry, and 50 years of age; residence near Memphis; business, planting and manufacturing. I was president of the Merchants' National Bank of Memphis from the fall of 1865 till Jan'y, 1870.

Int. 2. State whether you know Mr. James H. Mulford, of said Memphis; and, if yea, state if he had any dealings with said Merchants' Bank while you were said president; and, if so, state particularly what such dealings were.

Ans. I do know him. He had dealings with the bank, discounting cotton exchange.

Int. 3. State, if you know, what was the credit and financial standing of said Mulford for and during the year previous to your ceasing to act as said president.

102 Ans. I understood him to have credit only as a cotton-broker. Personally he had but little if any means. He got his money upon the cotton which he purchased as a broker.

Int. 4. State whether or not you knew Green and Travis, of Boston, Massachusetts, and state whether or not you knew anything concerning their credit and financial standing.

Ans. I did not know them personally, nor about their credit.

Int. 5. State whether or not you know that the National Bank of Commerce of said Boston, during the time you were president as aforesaid, delivered to said Green and Travis any bill of lading of cotton consigned by said Mulford to order, which bill of lading was indorsed in blank by said Mulford, and attached to a bill of exchange drawn by said Mulford on time on said Green and Travis, payable to the order of said Mulford, and by him indorsed in blank to said Merchants' Bank, and by said Merchants' Bank endorsed for collection and sent to the

Metropolitan National Bank of New York, and by said last-men-
103 tioned bank endorsed for collection and sent to said Bank of Commerce upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

Ans. I had no knowledge of any such transaction.

Int. 6. State whether or not said Mulford, at the time he transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, made any statement or communication, to your knowledge, to said Merchants' Bank, in relation to any bargain or agreement which he, said Mulford, had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank, or its officers, any information as to said Merchants' Bank delivering such bill of lading aforesaid to said Green and Travis upon acceptance by said bill of exchange by said Green and Travis, and before payment thereof.

Ans. No, sir; he never made any statement of the kind to the bank.

104 Int. 7. State, if you know, whether the said Bank of Memphis' knowledge of the credit and financial standing of said Mulford and of said Green and Travis was such that said bank would have delivered, during the year preceeding the time when you ceased to be president aforesaid, any bill of lading for cotton attached to a bill of exchange drawn by said Mulford on said Green and Travis, and indorsed so attached to said bank, upon the acceptance by said Green and Travis of such bill of exchange, before the same was paid.

Ans. The bank would not have consented to anything of the kind.

Int. 8. State whether or not you know S. M. Anderson, of said Memphis; and, if yea, state, if you know, whether or not he had any dealings with said Merchants' Bank while you were such president; and, if so, state particularly what dealings he had.

Ans. I know Mr. Anderson. He passed cotton exchange to the bank, which was discounted by the bank.

Int. 9. State, if you know, what was the credit and financial
105 standing of said Anderson for and during the year previous to the termination of your said presidency.

Ans. He was understood to have no means or credit personally, but only as a cotton-broker, based upon cotton shipped.

Int. 10. State whether or not you knew that said National Bank of Commerce, during the time you were president as aforesaid, delivered to said Green and Travis any bill of lading of cotton consigned by said Anderson to said Green & Travis, attached to a bill of exchange drawn by said Anderson at sight on said Green and Travis, payable to the order of said Anderson, and by him endorsed to said Merchants' Bank, and by said Merchants' Bank endorsed for collection and sent to the Metropolitan National Bank of New York, and by said last-mentioned bank endorsed for collection and sent to said Bank of Commerce, upon the acceptance of such bill of exchange by said Green and Travis, and before such bill of exchange was paid.

Ans. I had no knowledge of any such transaction.

106 Int. 11. State whether, at the time said Anderson transferred to said Merchants' Bank any bill of exchange drawn by him on said Green and Travis, said Anderson made any communication to said Merchants' Bank in relation to any bargain or agreement which he had with said Green and Travis in relation to the cotton named in any bill of lading attached to such bill of exchange, or gave said Merchants' Bank, or its officers, to your knowledge, any information as to said Mer-

chants' Bank delivering such bill of lading aforesaid to said Green and Travis, upon acceptance of said bill of exchange by said Green and Travis, and before payment thereof.

Ans. No, sir; he never made any such communication.

(This deposition was taken under commission upon interrogatories; and, at the close of plaintiff' interrogatories, before the same were annexed to the commission, the defendant entered an objection in the words following:

The defendants object to each of the interrogatories by the
107 plaintiff as incompetent, irrelevant, and immaterial; and particularly to interrogatory 7th, as calling for an opinion upon a matter upon which it is not competent for the witness to give an opinion.)

Cross-interrogatories in behalf of defendants:

X-int. 1. Examine the books of the plaintiff bank, and state how many drafts drawn by James H. Mulford upon Green and Travis, of Boston, have been purchased by or discounted by the plaintiff bank. Annex a list of the dates and amounts of all such drafts, and the time upon which each was drawn.

Ans. The bank bought 19 drafts drawn by Mulford on Green and Travis. I annex hereto, and make it a part of my answer, a schedule, marked Exhibit "D," showing a list of the dates and amounts of all such drafts.

X-int. 2. State how many drafts, drawn by S. M. Anderson and Company upon Green and Travis, of Boston, have been purchased or discounted by the plaintiff bank, and annex a list of the dates and amounts and time upon which each was drawn.

108 Ans. The bank bought 42 drafts of Anderson's drawn on Green and Travis, and of S. M. Anderson and Company's on same parties, and I annex a list hereto, as part of this answer, marked Exhibit "E," which shows all the drafts, their dates and amounts.

X-int. 3. Has the plaintiff bank ever discounted or purchased any drafts on Green and Travis, except those drawn by James H. Mulford and S. M. Anderson and Company. If so, what other drafts, and by whom were they drawn, and give the dates, amounts, and time upon which they were drawn.

Ans. There were none others while I was president.

X-int. 4. Were all the drafts drawn by Mulford and by Anderson and Company, on Green and Travis, sent by your bank to the Metropolitan N. Bank, of New York; and, if not, to what other bank or individual were they sent?

Ans. All sent to the Metropolitan National Bank, I think.

X-int. 5. Do you keep copies of your letters and telegrams to the Metropolitan N. Bank of New York?

109 Ans. It is the habit of the bank to do it.

X-int. 6. Please examine all such letters and telegrams, and state if, at any time and when, any directions or instructions were given by your bank to said Metropolitan Nat*h*'l Bank to hold the bills of lading attached to the drafts for the payment of such draft. Annex copies of all correspondence and telegrams containing such instructions or directions.

Ans. I have examined the letter-books and can find no such instructions.

X-int. 7. State if any instructions were given to the Metropolitan N. Bank to have the bill of lading or R. R. receipt attached to a draft, drawn Dec. 7, 1869, by S. M. Anderson and Company, for $22,442.66

dollars on said Green and Travis for payment of the draft, and annex copies of correspondence or telegrams containing such instructions.

Ans. I find no such instructions.

X-int. 8. If any such directions or instruction were given concerning said draft, or any draft, annex a copy of the letter or telegram
110 containing such instructions.

Ans. There were none that I can find.

X-int. 9. Had the plaintiff bank any other, and what, correspondent in New York, except the Metropolitan Nat*h*'l Bank?

Ans. None other.

X-int. 10. Give the date of the first draft drawn on Green and Travis purchased by plaintiff bank, and the date of the last draft so purchased.

Ans. Date of first draft, Sept. 30th, 1869; of last draft, June 24, 1870.

X-int. 11. What is the amount in the aggregate of all drafts drawn by James H. Mulford on Green and Travis, and purchased or discounted by plaintiff bank?

Ans. $158,354.14, as shown by the books of the bank.

X-int. 12. What is the amount in the aggregate of all drafts drawn by S. M. Anderson and Company on Green and Travis, of Boston, and purchased or discounted by plaintiff bank?

Ans. By S. M. Anderson and Company and by S. M. Anderson, $409,389.85, as shown by books of the bank.

111 X-int. 13. Whether the plaintiff bank made any enquiries of or through the Metropolitan N. Bank, at any time, as to the standing of Green and Travis?

Ans. I do not remember.

X-int. 14. If any such enquiries were made, were they made by letter or telegram, and annex copies of such letters or telegrams containing such enquiries?

Ans. I don't find any on the books of the bank.

X-int. 15. State if any information was received by plaintiff bank from the Metropolitan Nat*h*'l Bank, of New York, in reply to any such enquiries. If so, state when and in what way or form, and give copies of any letters or telegrams containing any such information.

Ans. I don't remember any such information whilst I was president.

X-int. 16. When did you first learn, and how, that the cashier of the defendant bank had written to the Metropolitan N. Bank of New York, concerning the standing of Green and Travis, and when first
112 see such letter or first know that such letter had been written?

Ans. I don't remember any such correspondence whilst I was president.

X-int. 17. State if any information was ever, at any time, received by the plaintiff bank from the Metropolitan Nat*h*'l Bank of New York, as to the standing of Green and Travis. If so, when, and what was such information, and annex copies of all letters and telegrams containing such information.

Ans. No information was ever received that I was cognizant of.

And further deponent saith not.

W. H. CHERRY.

(This deposition was taken under commission upon cross-interrogatories; and, at the close of defendant's cross-interrogatories, before the same were annexed to the commission, the plaintiff entered an objection in the words following:

113 The plaintiffs object to all and singular the several interrogatories propounded on cross-examination aforesaid as incompetent, irrelevant, and immaterial.)

Subscribed and sworn to before me this Nov. 26th, 1872.
[L. S.] M. B. TREZEVANT,
U. S. Commissioner.

113*a* *Bills purchased by Merchants' National Bank of Memphis from James H. Mulford.*

When taken.	Nos.	Drawer.	Drawee.	Date.	Time.	Amount.
1869.				1869.		
Nov 22nd	1400	Ja's H. Mulford	Green & Travis..	Nov. 20th	15 days	10,941 51
Dec. 17th	1426	Ja's H. Mulford	Green & Travis..	Dec. 16th	20 days	7,018 08
1870.				1870.		
Jan'y 5th	1450	Ja's H. Mulford	Green & Travis..	Jan'y 5th	20 days	11,896 98
Feb'y 26th	1487	Ja's H. Mulford	Green & Travis..	Feb'y 26th	24 days	5,569 93
Mar. 4th	1494	Ja's H. Mulford	Green & Travis..	Mar. 3d	24 days	4,110 75
Mar. 19th	1509	Ja's H. Mulford	Green & Travis..	Mar. 19th	24 days	9,681 96
April 7th	1520	Ja's H. Mulford	Green & Travis..	April 6th	24 days	3,784 96
April 12th	1529	Ja's H. Mulford	Green & Travis..	April 11th	24 days	2,440 44
April 14th	1532	Ja's H. Mulford	Green & Travis..	April 14th	24 days	14,263 68
April 16th	1537	Ja's H. Mulford	Green & Travis..	April 16th	24 days	8,994 06
April 22nd	1541	Ja's H. Mulford	Green & Travis..	April 21st	24 days	2,377 18
April 27th	1547	Ja's H. Mulford	Green & Travis..	April 26th	15 days	12,688 39
April 29th	1550	Ja's H. Mulford	Green & Travis..	April 28th	15 days	11,029 44
April 30th	1555	Ja's H. Mulford	Green & Travis..	April 30th	15 days	9,480 11
May 2nd	1556	Ja's H. Mulford	Green & Travis..	May 2nd	15 days	5,711 19
May 6th	1560	Ja's H. Mulford	Green & Travis..	May 5th	15 days	6,884 73
May 24th	1592	Ja's H. Mulford	Green & Travis..	May 23d	24 days	10,570 96
June 3rd	1607	Ja's H. Mulford	Green & Travis..	June 2nd	30 days	12,107 39
June 9th	1611	Ja's H. Mulford	Green & Travis..	June 7th	30 days	8,802 43

Exhibit D to W. H. Cherry's deposition.
[L. S.] W. H. CHERRY.

{ SEAL OF M. B. TREZEVANT, COMMISSIONER, MEMPHIS, SHELBY COUNTY, TENN. }

113*b* *Bills purchased by Merchants' National Bank of Memphis of S. M. Anderson and Company and of S. M. Anderson.*

When taken.	Nos.	Drawer.	Drawee.	Date.	Time.	Amounts.
1869.				1869.		
Sept. 30th	1366	S. M. Anderson & Co	Green & Travis..	Sept. 30	15 days	3,545 88
Oct. 16th	1380	S. M. Anderson & Co	Green & Travis..	Oct. 16	15 days	6,112 95
Nov. 13th	1399	S. M. Anderson & Co	Green & Travis..	Nov. 12	18 days	5,716 25
Nov. 26th	1402	S. M. Anderson & Co	Green & Travis..	Nov. 26	19 days	11,343 68
Dec. 8th	1413	S. M. Anderson & Co	Green & Travis..	Dec. 7	18 days	22,443 66
Dec. 10th	1418	S. M. Anderson & Co	Green & Travis..	Dec. 10	18 days	8,137 71
				1870.		
Jan'y 3d	1449	S. M. Anderson & Co	Green & Travis..	Jan'y 3	20 days	11,487 35
Jan'y 15th	1465	S. M. Anderson & Co	Green & Travis..	Jan'y 15	20 days	11,964 92
Jan'y 18th	1469	S. M. Anderson & Co	Green & Travis..	Jan'y 18	20 days' sight	11,144 85
Feb'y 10th	1480	S. M. Anderson & Co	Green & Travis..	Feb'y 9	20 days' sight	11,224 86
Feb'y 24th	1485	S. M. Anderson & Co	Green & Travis..	Feb'y 24	20 days' sight	11,056 41
Feb'y 26th	1488	S. M. Anderson & Co	Green & Travis..	Feb'y 26	20 days' sight	11,087 28
Mar. 3rd	1493	S. M. Anderson & Co	Green & Travis..	Mar. 3	20 days' sight	10,828 25
Mar. 10th	1498	S. M. Anderson & Co	Green & Travis..	Mar. 10	30 days	9,618 42
Mar. 26th	1514	S. M. Anderson & Co	Green & Travis..	Mar. 26	30 days	7,901 07
April 6th	1519	S. M. Anderson & Co	Green & Travis..	April 6	30 days	13,695 55
April 8th	1521	S. M. Anderson & Co	Green & Travis..	April 8	30 days	5,359 30
April 9th	1525	S. M. Anderson & Co	Green & Travis..	April 8	30 days	2,254 22
April 14th	1531	S. M. Anderson & Co	Green & Travis..	April 14	30 days	21,576 16
April 15th	1535	S. M. Anderson & Co	Green & Travis..	April 15	30 days	3,132 53
April 16th	1538	S. M. Anderson & Co	Green & Travis..	April 16	30 days	8,380 26
April 19th	1539	S. M. Anderson & Co	Green & Travis..	April 18	30 days	11,024 20
April 21st	1540	S. M. Anderson & Co	Green & Travis..	April 21	30 days	10,497 60
April 23rd	1545	S. M. Anderson & Co	Green & Travis..	April 23	30 days	11,259 80
April 26th	1546	S. M. Anderson & Co	Green & Travis..	April 26	15 days	8,608 52
April 29th	1553	S. M. Anderson & Co	Green & Travis..	April 29	15 days	5,523 83

BILLS OF S. M. ANDERSON.

May	11th	7175	S. M. Anderson	Green & Travis	May	10	At sight	8,316 40
May	12th	1570	S. M. Anderson	Green & Travis	May	12	20 days' sight	10,115 30
May	14th	1574	S. M. Anderson	Green & Travis	May	14	20 days	8,672 40
May	19th	1582	S. M. Anderson	Green & Travis	May	19	20 days	11,630 56
May	20th	1583	S. M. Anderson	Green & Travis	May	19	30 days	11,660 05
May	20th	1584	S. M. Anderson	Green & Travis	May	19	25 days	11,645 29
May	21st	1586	S. M. Anderson	Green & Travis	May	21	20 days	10,831 05
May	21st	1588	S. M. Anderson	Green & Travis	May	20	25 days	44 60
May	27th	1596	S. M. Anderson	Green & Travis	May	27	30 days	10,629 02
May	28th	1598	S. M. Anderson	Green & Travis	May	28	30 days	10,624 50
May	30th	1601	S. M. Anderson	Green & Travis	May	30	30 days	8,911 47
May	31st	1602	S. M. Anderson	Green & Travis	May	31	30 days	9,411 31
June	2d	1604	S. M. Anderson	Green & Travis	June	2	30 days	10,739 35
June	3rd	1606	S. M. Anderson	Green & Travis	June	3	30 days	10,237 50
June	8th	1610	S. M. Anderson	Green & Travis	June	7	30 days	10,322 30
June	24th	7450	S. M. Anderson	Green & Travis	June	24	At sight	10,673 24

Exhibit "E" to W. H. Cherry's deposition.

W. H. CHERRY.

SEAL OF M. B. TREZEVANT, COMMISSIONER, MEMPHIS, SHELBY CO., TENN.

116 [This page follows 113, pages 114 & 115 being omitted.]

The defendants admitted that the surrender of the bills of lading by their messenger was authorized by them.

The plaintiff then again offered in evidence the letter of defendant's cashier to Metropolitan N. Bank, dated June 13, 1870, and claimed that the same was now admissable by reason of the defendant's cross-examination of and answers of Amos Woodruff in his deposition. The court admitted it, to which the defendants then and there excepted. The plaintiff also recalled W'm A. Travis, who testified as follows: The samples of cotton were sent to us by parties of whom we purchased cotton, (Mulford and Anderson;) usually received the samples when we received the drafts; came with the invoices. The samples came by express and the invoices by mail; sometimes there was two days' difference in the time of their arrival.

Before the plaintiffs closed their case they offered to read to the jury and put in the deposition of G. I. Seney, cashier of Met. Nat. Bank, but defendants stated the deposition was taken by them, and that they intended to put it in, upon which statement plaintiffs desisted from
117 putting in the deposition for the present.

At the close of the plaintiff's case the defendants asked the court to instruct to jury that it was the duty of the plaintiffs to surrender the bills of lading upon the acceptance of the drafts, and that they were not bound to hold the same for payment; but the court refused so to rule, to which ruling the defendants excepted.

And the defendants then and there to maintain and prove the issue on its part, submitted to the court and jury the following documents and oral testimony.

The defendants called W'M S. BARTON, who testified as follows;

Am now treasurer of the city of Worcester; was collection clerk of defendant bank from June, 1854 to Jan'y 15th, 1872. I have a list of all the Green and Travis drafts sent to defendant bank by the Metropolitan N. Bank. They are all on time except the sight-draft that came to hand June 29, 1870, and which came due July 2d. Defendant's books show how long a draft has to run. Bills of lading were attached
118 to all the drafts upon Green and Travis. There was one draft which we were instructed to hold by the Metropolitan N. Bank, and we were never instructed to hold but one. That draft was dated

Dec. 7, 1869, and was drawn on Green and Travis by Anderson and Company, 18 days after date, for $22,443.66, and the original draft and instructions accompanying it are annexed to deposition of G. I. Seney, cashier.

119 *Copies of draft and instructions.*

Exchange for $22,443.66]

MEMPHIS, *Dec. 7th*, 1869.

Eighteen days after date of this first of exchange, (second unpaid,) pay to the order of ourselves twenty-two thousand four hundred and forty-three $\frac{66}{100}$ dollars, value received, and charge the same to account of

S. M. ANDERSON & CO.

To Mess. GREEN & TRAVIS, *Boston, Mass.*

DEC. 8.

(Written across the face:) GREEN & TRAVIS.

(Endorsed by S. M. Anderson & Co.)

Pay Metropolitan National Bank.
Merchants' National Bank of Memphis.

H. A. PARTEE, *Cashier.*

Pay National Bank of Commerce or order for collection.

By G. I. SENEY, *Cashier.*
By H. CHAPIN, JR.

METROPOLITAN NATIONAL BANK,
No. 108 *Broadway, New York, Dec.* 11, 1869.

C. H. WARNER, *Cash.:*

You will please hold the bill of lading until the draft is paid.

120 The following letter was written by the cashier of the Metropolitan N. Bank, in which the draft and instructions accompanying it were enclosed.

METROPOLITAN NATIONAL BANK,
New York, Dec. 11, 1869.

C. H. WARNER, Esq., *Cashier:*

D'R SIR: Your favor of 10th instant is received with enclosures. Enclosed, I send for collection bills as stated below.

Respectfully yours,

For G. I. SENEY, *Cashier.*

W. F. H. Whittemore	447	98	Nat. Ex. B'k	80	75
W. H. Wilson	136	50	Demson, Treas	1,941	2
Manning, G. & L	2,000		Thayer, B. & C	3,740	53
Marsh, A. & Co	1,000		Ordway, B. & C	100	00
Utley & Boynton	117	65	Bullin, H. & F	250	46
Woodwind, B. & C	650		Nath. No. Am	220	67
Lord, Stone & Co	650		do.	4,248	10
Nat. Coms	316	25	Ass't Treas	22,971	28
Cond Nat	2,030	09	Traders N	145	80

Skellings, K. & Co....	131	68	M't Vernon.....	126	12
Green & Travis..	22,443	66	do.	860	34
121 T. Lockwood....	2,829	78	Elliot, Nat.....	582	50
2 Nat. B'k.....	11		F. Hall, N.....	225	
"	122	50	Boylston N.....	1,597	05
Globe Nat.....	40		do.	162	
Traders' N.....	200		Atlantic N.....	4,000	
1 Nat.....	313	21	Nat. Comm.....	40,000	
3 Nat.....	166	38	do.	25,000	
F. Hall Nat.....	21	15	B'k Metropolis.....	18,699	83
do.	94	94	Nat. Union.....	1,404	63
do.	150		Nat. R'd.....	2,000	
Nat. Repub.....	766	50	do.	2,000	
Nat. Com's.....	47	35	Nat. Union.....	400	
Nat. Eagle.....	435				
Nat. R'd.....	12				
do.	390	33			
do.	18				
Nat. Ex.....	50				

122 All the drafts came through my hands. We had the business of the Metropolitan National Bank after 1854. We were accustomed, during this whole time, to surrender bills of lading on acceptance of drafts, where we had no orders to hold for payment. There were a large amount of bills for acceptance, besides these bills on Green and Travis. The messenger surrendered them.

C. H. WARNER testified as follows:

Am cashier of defendant bank; cashier since 1854. I have examined our correspondence with Metropolitan N. Bank, and find no orders to hold any bills of lading attached to drafts on Green and Travis, but one, the draft of Dec. 11, 1869. I may not have known this at the time. As a general thing, the drafts are passed over to collection clerk. From 1854 our business with Metropolitan N. Bank in bills for acceptance with bill of lading attached was large. They were surrendered on acceptance. I wrote the letter of June 13, concerning credit of Green and Travis. We received a letter of inquiry from Metropolitan N. Bank in regard to credit of Green and Travis. It is dated June 11th, 1870. Nothing came with it. It was as follows:

123 METROPOLITAN NATIONAL BANK,
No. 108 *Broadway, New York, June* 11, 1870.

C. H. WARNER, Esq., *Cash.:*

SIR: If you are able to give us any definite information concerning the standing and responsibility of Mess. Green and Travis, of your city, you will greatly oblige us by so doing.

Yours, resp'y,

G. I. SENEY, *Cashier.*
p'r H. CHAPIN, JR.

The Metropolitan Bank acknowledged receipt of this information in letter containing draft of June 7, 1870, for $8,802.43. I have no recollection when I first heard of failure. The draft received on the 29th of June, would, in the ordinary course of business, be sent to Green and Travis in the forenoon.

The defendants then called W'M A. TRAVIS, who testified as follows:

I purchased cotton of J. H. Mulford, through Col. J. J. Baker and Henry Bartlett, and of Anderson and Company, and Anderson,
124 through E. A. Travis. Anderson came on here before we began the business with him. It was arranged between us that the bills of lading should be given up on all time-drafts on acceptance. Hawks was here in the winter of 1869, 1870. He was in the office when the bills of lading and drafts came in and when bills of lading were given up on acceptance of drafts. My brother had been agent for Anderson and Company for several months before failure of Green and Travis. He knew we were having bills of lading surrendered on acceptance of time-drafts. Mulford was here in winter; he knew they were surrendered, and so did J. J. Baker. I bought this cotton on 30 days and interest added. We began business in fall of 1868. Mulford was here in January or February, 1870. I told him it would be of no use to us unless we could have the cotton on acceptance of drafts. We told him we were receiving the bills of lading on acceptance of drafts. All the Mulford and Anderson drafts came through the defendant bank. Other drafts upon us came through other banks—Elliott, Blackstone, Second National, Tremont, Revere, and through the bankers Tower, Ged-
125 dings and Towey; never got bills of lading from any other banks or bankers without paying drafts. Not one of these banks delivered me bills of lading on acceptance except the defendant bank.

The defendants called EDGAR A. TRAVIS, who testified as follows:

Was agent for Anderson and Anderson and Company down to the time of the failure of Green and Travis. Had correspondence with Anderson; wrote him and received letters from him. I knew the bills of lading attached to drafts drawn by Anderson and Anderson and Company, were surrendered on acceptance of drafts. Hawks was here in Feb., 1870. He made the office of Green and Travis his head-quarters for a week or more, and saw bill of lading given upon acceptance of draft.

The defendant also offered in evidence, and read without objection, the following letter from Anderson and Company to witness, (E. A. Travis.)

Copy of letter.

MEMPHIS, TENN., *June 14th*, 1870.

Mr. E. A. TRAVIS:

126 DEAR SIR: Yours of 9th inst. reached me last evening. I am very sorry our market are in such condition, relatively, that you cannot use the offers I send or get orders on quotations. It is, of course, a chockblock to our little business.

With regard to not being able to negociate time-drafts, the disease is prevalent, and caused principally by the failure of Gorham, Gray and Company. The banks will not run any risks on time-bills longer than they can conveniently control the cotton for any one. I have the best of proof that at Mobile banks will not look at any bills longer than sight, and, under the circumstances, I think that the Memphis bank are very liberal in being willing to take ten days' date-drafts. This gives 13 days from date of bills in which to prepare for payment.

I am assured by the Merchants' National Bank of Memphis, that if any one can get further accommodation in money matters, I can. So you

see it is not because there are 1,000 bales yet unpaid for by G. & T.,
127 but because they do not wish to run the risk that those who held Gorham, Grays' paper did.

The cause for the delay in the transportation of cotton to the East is, that the quantity of rolling-stock out here is so much lessened by the fact that the eastern lines will not return the cars until they can get freight to put into them, not caring to stand the expense of sending empty cars to the West.

That is now, or will soon be, obviated by plenty of cars arriving here with freight.

Hoping you will be able to send some orders at sight on 10 d' date.

I am yours, &c.,

S. M. ANDERSON.

The defendant also offered other letters from Anderson and Company to witness, and claimed that the same were admissable: (1) to contradict the testimony of S. M. Anderson in his deposition, and also as showing that there was an agreement of Anderson and Company that the bills of lading should be surrendered on acceptance of the drafts; but the court excluded the same upon the ground that no foundation had been
128 laid to contradict Anderson in his deposition, he not having been interrogated by the defendant upon the matter in cross-examination; to which ruling the defendants then and there excepted.

I saw J. H. Mulford at the office; was there once or twice.

Cross-examined:

My office was with Green and Travis. One of the drafts came in while Hawks was there; bank-messenger brought in a bill of lading and draft, and the bill of lading was surrendered. Hawks said that was the way the bills of lading would come, and I might tell everybody they would come so. I ordered cotton from Anderson for Bird, Lockwood and Bigelow; do not know through what bank their drafts came. I had nothing to do with this cotton when it arrived.

The defendants also called J. J. BAKER, who testified as follows:

I am cotton-broker, in Boston, and was such in 1869, and 1870; was agent for J. H. Mulford. I began my agency in October, 1869, and it continued till 1871. I made sales to Green and Travis, and took orders from them. I fixed price and time of sale with them. From
129 October, 1869, to June, 1870, sold to them all they bought of Mulford. There was an agreement Green and Travis should have bills of lading on acceptance. Mulford was here in winter of 1870, January or February. I went with him to see Green and Travis. There was a complaint about the heavy charge for time-drafts for his accommodation, one to one and a half per cent. interest a month. It was said his cotton often came in 15 days, and it was necessary the customer should have his bill of lading. Mulford approved of this surrender. It was not necessary to resume after this. I saw Hawks here after that. He had a room in the same house with me, in the winter of 1869 and 1870. I made my arrangements with his (Mulford's) son, and I made the arrangement to surrender the bills of lading on acceptance of draft.

And in cross-examination the witness testifies as follows:

I took orders for the cotton on the three drafts. I got orders for Mulford from other parties besides Green and Travis. The usual time of draft was twenty or thirty days; no other time talked about. Green

and Travis were to have bills of lading on acceptance of drafts.
130 Cotton bought for others was not always bought on sight. I understood that if the sale was on time, they would be entitled to the bills of lading. The conversation was about the rate of exchange and interest. Travis complained. He spoke of the necessity of their having bills of lading surrendered. The cotton samples would come to me in five or six days after the purchase. I had nothing to do with this cotton when it came here unless there was a dispute about the quality. Mulford would telegraph to me he had so many bales of such a grade and such a price, and order me to place it. This I would do, and I call this a sale. I would receive an order and telegraph for it; and for this Mulford was to pay my commission. My business with him was chiefly on orders. I cannot say whether these lots were on orders or sales.

The defendants further offered in evidence and read to the court and jury the following deposition of G. I. Seney, cashier of the Metropolitan N. Bank:

Deposition of G. I. Seney.

131 Int. 1. What is your name, age, and occupation? and, if cashier of the Metropolitan N. Bank of New York, state how long you have held such office.

Ans. My name is George I. Seney; 46 years of age; cashier Metropolitan National Bank of New York; and have held such office over 20 years.

Int. 2. Were you cashier of the Metropolitan N. Bank in the years 1869 and 1870?

Ans. I was.

Int. 3. Whether or not your bank were the corresponding bank of the Merchants' Bank of Memphis, during the years 1869 and 1870?

Ans. It was.

Int. 4. Please examine your books and correspondence, and state whether your bank received from said plaintiff bank, during the years 1869 and 1870, drafts drawn by James H. Mulford and drafts drawn by S. M. Anderson and Company, of Memphis, Tennessee, on Green and Travis, of Boston.

Ans. We received such drafts.

132 Int. 5. Please state the amount, in the aggregate, of all such drafts so drawn by J. H. Mulford on said Green and Travis.

Ans. The book containing the information asked for in the interrogatory is in Boston, and I am not able to give it. It was taken there at the request of the plaintiffs in this suit, to be used on the trial of this cause.

Int. 6. Please state the amount, in the aggregate, of drafts so drawn by S. M. Anderson and Company on said Green and Travis.

Ans. For the same reason I cannot answer this interrogatory, as the book containing the information is in Boston.

Int. 7. Please give a list of the dates and amounts and time of all drafts drawn by said J. H. Mulford on said Green and Travis and sent to your bank by the plaintiff's bank.

Ans. I cannot answer this question, as we keep no such record.

Int. 8. Please give a list of the dates and amounts and time of all drafts drawn by said S. M. Anderson and Company on said
133 Green and Travis and sent to your bank by the plaintiff bank.

Ans. The same answer as to the last interrogatory.

Int. 9. Whether or not your bank forwarded to the defendant bank all said drafts so drawn by said Mulford and by said Anderson and Company upon said Green and Travis.

Ans. Our bank did.

Int. 10. Whether or not your bank gave any instructions to the defendant bank to hold the bills of lading or railroad receipts attached to any of the drafts of said Mulford and Anderson and Company upon said Green and Travis, and which, for the payment of said drafts; and, if so, how were such instructions given? and annex copies of all such instructions.

Ans. We have had no record or knowledge of any such instructions, except the memorandum of December 11th, 1869, attached to and referring to draft of S. M. Anderson and Company, dated December 7th, 1869, on Green and Travis, for $22,443.66, enclosed in our letter of December 11th, to the National Bank of Commerce, Boston, and
134 which is annexed to this commission.

Int. 11. Please examine your correspondence and telegrams received from the plaintiff bank, and state if any instructions were given to your bank to hold the bills of lading or railroad receipts attached to any of said drafts; and, if any such instructions were received, annex copies of any such letters and telegrams containing such instructions.

Ans. We find none except in a certain letter now in Boston in the hands of plaintiff's attorney. We were instructed to hold bills of lading on draft referred to in my answer to the tenth interrogatory, or have the payment of draft assured before giving up the cotton.

Int. 12. Please examine the draft hereto annexed, for $22,443.66, dated Dec. 7, 1869, and state if the same was sent to the Metropolitan N. Bank by the plaintiff bank.

Ans. I have examined it, and it was so sent.

Int. 13. Please annex a copy of the letter accompanying the same from the plaintiff bank.

135 Ans. I cannot do , as the letter referred to is in Boston with the plaintiff's attorney.

Int. 14. Please examine the letter or memorandum attached to said draft, dated Dec. 11, 1869, and not signed, and state whose handwriting it is, and whether it is the handwriting of any officer or clerk of the Metropolitan N. Bank, and what is his name and office, and by whose order or direction such memorandum or direction was written to the defendant bank.

Ans. Mr. B. G. Mitchell, assistant discount clerk, and at times assistant in the corresponding department, wrote the instructions referred to, at the request of the Merchants' National Bank of Memphis.

Int. 15. Please examine the letter hereto annexed, dated Dec. 11, 1869, with the printed signature of G. I. Seney, cashier, and state if said letter was sent to defendant bank by your order or direction, and if the draft above referred to for $22,443.66 and memorandum attached to said draft, was enclosed in it.

Ans. There was no special order given in regard to the letter
136 referred to, but was sent in the regular order of business.

Int. 16. State why and at whose request such direction' were sent to the defendant bank to hold said bill of lading for payment of said draft.

Ans. By the direction of the Merchants' National Bank of Memphis.

Int. 17. Annex a copy of any such letter or telegrams from the

plaintiff bank, or any other party requesting or directing said bill of lading to be held for the payment of said draft.

Ans. We find no instructions except such as I have referred to in my answer to the 11th interrogatory.

Int. 18. If you answer that you were directed or requested by the plaintiff bank to hold said bill of lading attached to said draft for 22,443.66, dated Dec. 7, 1869, state if you were directed by the plaintiff bank to hold any other bill of lading attached to any other draft of said Mulford or said Anderson and Company on said Green and Travis sent to you by the plaintiff bank, and, if so, state what
137 drafts, and give the dates and amounts, and annex to your deposition copies of all letters and telegrams containing such instructions.

Ans. I have no knowledge of any such instructions.

Int. 19. Whether or not, you, as cashier of the Metropolitan N. Bank of New York, wrote a letter to the cashier of the defendant bank, making enquiry as to the standing of Green and Travis. If so, state at whose request such letter was written and enquiry made, and give the date of such letter?

Ans. Such a letter was written either by myself or by my directions. I cannot give the date. I only speak from recollection. I think it was written for our own satisfaction.

Int. 20. Whether or not you received a reply to such letter of inquiry so written from the cashier of the defendant bank, and annex a copy of such answer?

Ans. We did receive a reply to such letter and I hereto annex a copy, marked Exhibit "A," R. E. S., U. S. com'r.

138 Int. 21. Whether you communicated the result of such enquiry or information so obtained by the party for whom you made such enquiry?

Ans. My recollection is that we made the enquiry for our bank, and as such the bank got the information.

Int. 22. What use did you make of such information, and to whom communicated it, and for whom obtain it?

Ans. My recollection is that before the maturity of all the drafts on Green and Travis, I stated to Mr. Woodruff, president of the Merchants' National Bank of Memphis, who happened in our bank, that from information we received from Boston, we did not consider Green and Travis very responsible.

GEO. I. SENEY.

This deposition was taken under commission upon interrogatories; and, at the close of defendant's interrogatories, before the same were annexed to the commission, the plaintiff entered an objection in the words following:

139 The plaintiff objects to all and singular the several interrogatories above written, because the same are informal, irrelevant, and immaterial, and declines to file cross-interrogatories.

Subscribed and sworn to before me this 27th November, 1872.

R. E. STILWELL,
U. S. Commissioner.

140 *Draft annexed.*

Exchange for $22,443.66.] MEMPHIS, *Dec. 7th*, 1869.

Eighteen days after date of this first of exchange, (second upaid,)

pay to the order of ourselves twenty-two thousand four hundred and forty-three $\frac{66}{100}$ dollars, value received, and charge the same to account of

S. M. ANDERSON & CO.

To Messrs. GREEN and TRAVIS, *Boston, Mass.*
DEC. 28.

(Written across the face:) GREEN & TRAVIS.

(Endorsed by S. M. Anderson & Co.)

Pay Metropolitan National Bank.
Merchants' National Bank of Memphis.

H. A. PARTEE, *Cashier.*

Pay National Bank of Commerce, Boston, or order for collection.

G. I. SENEY, *Cashier.*
By G. I. SENEY, *Cashier.*

METROPOLITAN NATIONAL BANK,
No. 108 *Broadway, New York, Dec.* 11, 1869.

C. H. WARNER, *Cashier:*

You will please hold the bill of lading until the draft is paid.

141 *Letter of December* 11*th*, 1869.

J. E. WILLIAMS, *President.* G. I. SENEY, *Cashier.*

METROPOLITAN NATIONAL BANK,
New York, Dec. 11*th*, 1869.

C. H. WARNER, Esq., *Cashier:*

DEAR SIR: Your favor of 10 instant is received with enclosures. Enclosed I send for collection bills as stated below.

Respectfully, yours,

For G. I. SENEY, *Cashier.*

☞ Please return, as promp'ly as possible, all unpaid collections.

W. & F. H. Whittemore.	447	98	Globe Nat.....	40	
W. H. Wilson.....	136	50	Traders' N.....	200	
Manning, G. & C.....	2,000	00	1 Nat.....	313	21
Marsh & C.....	1,000		2 Nat.....	166	38
Attley & Boynton.....	117	65	F. Hall N.....	21	15
Woodwind, B. & C....	650		do.	94	94
Lord, Stone & D.....	650		do.	150	00
Nat. Com'r.....	316	25	Nat. Repub.....	766	50
Com't Nat.....	2,030	09	Nat. Com'r.....	47	35
142 Skillin, K. & Co..	131	68	F. Hall N.....	225	
Green & Travis.	22,443	66	Boylston Nat.....	1,597	05
T. Lockwood.....	2,829	78	do.	162	
2 Nat. B'k.....	11		Atlantic N.....	4,000	
do.	122	50	Nat. Com'r.....	40,000	
Nat. Ex. R. R.....	80	75	do.	25,000	
Demson, Treas.....	1,941	2	B'k Metrop.....	18,699	83
Thayer, B. & Co.....	3,740	53	Nat. Union.....	1,404	63
Ordway, B. & C.....	100		Nat. Red.....	2,000	
Bullon, H. & F.....	250	46	Nat. Eagle.....	435	
Nat. No. Am'r.....	220	67	Nat. Red.....	12	

do.	4,248 10	do.	390 33
Ass't Treas	22,971 28	do.	18
Traders' Nat	145 80	Nat. Ex	50
M't Vernon	126 12	Nat. Red	2,000
do.	860 34	M't Union	400
Elliot Nat	582 50		

143 *Exhibit A.*

B. E. BATES, *President.* C. H. WARNER, *Cashier.* GEO. W. HARRIS, *Ass't Cash'r*

THE NATIONAL BANK OF COMMERCE OF BOSTON,
Boston, June 13, 1870.

G. I. SENEY, Esq., *Cash'r:*

DEAR SIR: Messrs. Green and Travis have always paid their drafts promptly, but I cannot learn that they have any capital or commercial standing. They are, I think, cotton speculators.

Resp'ly, yours,
(Signed) C. H. WARNER, *Cash.*

144 The defendant also offered in evidence the following letter from the plaintiff bank to the Metropolitan N. Bank, enclosing the draft of Dec. 7th, 1869, for $22,443.66.

Copy of letter.

MERCHANTS' NATIONAL BANK OF MEMPHIS,
Memphis, Tenn., Dec. 8, 1869.

145 G. I. SENEY, Esq., *Cashier, N. Y.:*

DEAR SIR: I enclose herein for discount and credit, bills as follows: 1413, Green and Travis, Boston, 28 Dec'r, 22,443.66, B. L. attached.

Please instruct your correspondent to have the payment of the bill assured beyond question, or hold the cotton until paid.

Yours, truly,
H. A. PARTEE, *Cashier.*
By PHILLIPS.

The defendant also called W'M A. TRAVIS again, who testified as follows;

The cotton in bills of lading accompanying draft of June 2nd, 1870, cost $23\frac{44}{100}$ cents per pound, and there was 54,093 pounds, including freight. The freight was 70 cts. per hundred pounds. The cotton in bill of lading accompanying draft of June 7th, 1870, cost $22\frac{1}{4}$ cents per pound, and contained 41,159 pounds; freight, 70 cts. per hundred pounds; and the cotton in bill of lading accompanying draft of
146 June 24 cost about 22 cents, and contained 51,777 pounds; freight, 70 cents. This cotton was all worth twenty cents a pound at the time of the acceptance of the drafts. The bill of lading accompanying the sight-draft was pledged to Way, for $10,000. There was a decline in cotton in the month of June, 1870. The cotton for the two time-drafts of June 2d and June 7, 1870, were bought on my order through Baker.

JAMES H. MULFORD.

I never made an agreement with Green and Travis, directly or through

an agent, for delivery of bill of lading on acceptance of these drafts. Was in Boston in Feb'y, 1870. I had no conversation with Green and Travis in presence of Baker or otherwise, as to surrender of bills of lading on acceptance. Nothing was said as to inconvenience of waiting for maturity of draft. There was something said about having cotton consigned directly, about getting notice from the depots. I think this was with some one else. I was here 24 to 36 hours. I was not here between February and July. I was at Green and Travis' per-
147 haps 15 minutes. Mr. Baker was to obtain orders and transmit them to me for cotton, for me to execute if I could. My position as to cotton was a cotton-buyer. I bought on orders, and did not buy till I received an order. I went to the bank to see about negociating. I sometimes had cotton on hand in small lots, which was left me on previous orders, and that I put into other orders. Any sale Baker made in Boston was on a refusal I had at Memphis, say a refusal of one day. I communicated terms I can make, and, if accepted, I can fill the acceptance. Looking at my cotton-book as to cotton of June 2d and 7th, I find these two lots of June 2 and 7 were on orders.

At the conclusion of the evidence on both sides, the defendants requested the court to instruct the jury as follows:

If the jury shall be satisfied that by agreement between Green and Travis and the drawer of the drafts that the bill attached was to be surrendered on the acceptance of the draft, the Bank of Memphis is
148 chargeable with notice of such agreement. This instruction was not given, but the jury were instructed that such an agreement between Green and Travis and the drawer of the drafts would not bind the bank if the bank had no knowledge of it.

The defendant also requested the court to instruct the jury, as follows:

If not so chargeable, if the jury shall be satisfied that, as matter of fact, by the evidence, that there was such an agreement, and that the Bank of Memphis was aware of such agreement, the Bank of Memphis cannot maintain this action.

If the Bank of Memphis had no notice of such agreement, if the jury shall be satisfied that either the Bank of Memphis or the Metropolitan Bank understood that the Bank of Commerce was surrendering the bills of lading to Green and Travis upon the acceptance of the draft attached and did not object, the plaintiff cannot recover.

The court declined to give the instructions requested, except so far as they are embraced in the following instructions; but did instruct
149 the jury among other things, as follows:

A bank receiving a bill of exchange for collection, cannot, without the consent of the owner, rightfully surrender the bill to the drawer before payment. In the absence of any consent of the owner of the bill of exchange, other than such as may be implied from the mere fact of sending "for collection," a bill of exchange with a bill of lading pasted or attached to the bill of exchange, the bank so receiving the two papers "for collection," would not be authorized to separate the bill of lading from the bill of exchange and surrender it before the bill of exchange was paid.

Consent to do otherwise and surrender the bill of lading upon acceptance, and before payment of the bill of exchange may be either express or implied. It may be implied from such a previous course of dealing between the parties as would justify the jury in finding the fact that the owner contemplated and assented to the delivery of the bill of lading upon acceptance of the bill of exchange.

150 The undisputed facts are that Mulford and Anderson are cotton-brokers, without large means or credit, except so far as based upon a reputation for fair dealing. They send to their agents in Boston prices-current and circular letters giving prices for different grades, and also fixed prices of particular specified lots of cotton, and solicit orders. The agent takes the letters containing advices of prices to his customers, and obtains orders for cotton at the prices named according to grade or for a given quality in a particular lot at the current rate for that day. The cotton-broker in Memphis goes to the bank to ascertain if he can obtain an advance of the price on the pledge of the cotton. If he can, he purchases the cotton, delivers it to the carrier, takes a bill of lading negotiable, and goes with it to the bank, indorses it to the bank, receives from the bank the money, and pays the price of the cotton. When he delivers the bill of lading, which is the symbol of the property, to the bank, the effect is the same as if he delivered the property itself. The bank pays the price and takes the delivery of
151 the property and holds it in pledge. Upon such a state of facts the parties ordering the cotton had no title which they could set up against the title of the bank. The order to buy gave Green and Travis no title to the cotton. The bank had a right to hold the bill of lading for the payment of the price and to instruct the collecting bank to hold the bills of lading until payment of the drafts.

But it does not follow that the Bank of Memphis insisted on its rights. It may have elected to insist only on a portion of its rights; bill of exchange, representing the price formed one portion of the security of the bank, the bill of lading representing the property formed another portion. It was competent for the Bank of Memphis to separate the bill of lading from the bill of exchange, and surrender it upon acceptance and before payment of the bill, as is frequently done.

The liability of the defendant bank depends upon the relation of principal and agent. It was bound, if it consented to act as agent for the collection of the drafts, to conform to the directions of the principal. If it conformed to the instructions of the principal, it was
152 justified. Such instruction may be express, or the jury may imply them from such a course of dealing between the parties as would authorize the jury to find that when the Memphis Bank or the Metropolitan sent the bills of lading attached to the drafts, the bank transmitting the instruments knew that the bank receiving them for collection would, in the absence of express instructions to the contrary, deliver the bills of lading on acceptance, and before payment of the drafts. For the purposes of this trial, I instruct you that the National Bank of Commerce would be protected, if you find that it complied with the instructions of the Metropolitan Bank. The instructions of the Metropolitan Bank to the defendant bank, either express or implied from a long course of dealing in a particular mode, would protect the defendant bank. If the Metropolitan Bank was instructed to hold the bills of lading for payment of the drafts, and transmitted them to the defendant bank, with instructions, express or implied, to hold only for acceptance, the defendant bank, having no knowledge of any
153 other principal or any different instructions, would be justified in surrendering on acceptance. But, if the Metropolitan Bank merely sent to the defendant bank the bills of exchange, with the bills of lading attached "for collection," with no other instructions, either express or implied, from the past relations of the parties, they would not be so justified in surrendering on acceptance only. You will determine, as a question of fact, whether either the Bank of Memphis or

the Metropolitan Bank had knowledge of the fact that the Bank of Commerce surrendered bills of lading when attached to bills of exchange, upon acceptance of the bills, and transmitted them with the knowledge that they would be thus dealt with. If they did, the defendants are not liable.

To which instructions and refusals and rulings the defendant then and there excepted.

The court also instructed the jury to answer by their verdict the following questions.

Was there any agreement between Anderson and Mulford,
154 (or either of them, and, if so, which of them,) with Green and Travis, that the bills of lading should be surrendered on acceptance of the bills of exchange; and, if so, was such agreement communicated to or known to the Bank of Memphis?

The jury found the following verdict for the plaintiff:

Copy of verdict.

U. S. circuit court, Mass. district, October T., 1872.

MERCHANTS' NATIONAL BANK OF MEMPHIS
v.
NATIONAL BANK OF COMMERCE OF BOSTON.

The jury find for the plaintiff, and assess damages in the sum of thirty-four thousand four hundred ninety-four dollars twenty-three cents.

JAMES M. MOORE,
Foreman.

And returned the following answer to the questions directed by the court.

155 *Copy of answer.*

We find there was an agreement between Anderson and Mulford and Green and Travis, but that such agreement was not known to the Bank of Memphis.

JAMES M. MOORE,
Foreman.

The value of the cotton and the quantity embraced in the bills of lading surrendered, was agreed upon by the parties and the verdict made upon this computation. And inasmuch as matters referred to and the several instructions, rulings, and directions of the honorable court so objected to, do not appear by the record or the verdict aforesaid, the counsel on the part of the defendants pray the honorable court to set their seal to this bill of exceptions, containing the several matters proved and given in evidence, and the rejections, rulings, and directions of his honor the judge thereupon, and the exceptions thereto. All of which, being found to be true, are allowed.

In witness whereof I have hereto set my hand and seal.

[SEAL.] G. F. SHIPLEY,
U. S. Circuit Judge First Judicial Circuit.

A true record. Attest:

JOHN G. STETSON, *Clerk.*

156 UNITED STATES OF AMERICA,
Massachusetts District:

I, John G. Stetson, clerk of the circuit court of the United States for the first circuit and district of Massachusetts, certify that the foregoing is a true copy of the record and of all proceedings in the cause of The Merchants' National Bank of Memphis v. The National Bank of Commerce of Boston, in said court determined.

In testimony whereof I hereunto set my hand and affix the seal of said circuit court, at Boston, in said district, this eleventh day of March, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States the ninety-seventh.

[SEAL.] JOHN G. STETSON, *Clerk.*

157 *Bond on writ of error.*

Know all men by these presents that we, the National Bank of Commerce of Boston, as principal, and Benjamin E. Bates, of Boston, in the State of Massachusetts, as surety, are held and firmly bound unto the Merchants' National Bank of Memphis in the full and just sum of fifty thousand dollars, to be paid to the said Merchants' National Bank of of Memphis, its certain attorney, successors, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated the eleventh day of March, in the year of our Lord one thousand eight hundred and seventy-three.

Whereas, lately, at a term of the circuit court of the United States, held at Boston, within and for the district of Massachusetts, in a suit depending in said court between the Merchants' National Bank of Memphis and the National Bank of Commerce of Boston, judgment was rendered against the said National Bank of Commerce of Boston, and the said National Bank of Commerce of Boston having procured a writ of error and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Merchants' National Bank of Memphis, citing and admonishing it to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next:

Now, the condition of the above obligation is such, that if the said National Bank of Commerce of Boston shall prosecute its said writ of error to effect, and answer all damages and costs if it fail to make its plea good, then the above obligation to be null and void; otherwise to remain in full force and virtue.

NAT'L BANK OF COMMERCE,
By B. E. BATES, *Pres't.* [L. S.]
B. E. BATES. [L. S.]

Signed, sealed, and delivered in presence of—
C. H. WARNER.

Approved:

G. F. SHEPLEY,
U. S. C. Judge.

Associate Jus. Sup. Court of the U. S.

A true copy of the bond taken by the judge at the time of allowing the writ of error named in said bond, which bond is on file in the office

of the clerk of the circuit court of the United States for the first circuit and district of Massachusetts.

Attest:

[SEAL.]

JOHN G. STETSON,
Clerk U. S. C. C. Mass. Dist.

The surety to the within bond is satisfactory to us.

SWEETSER & GARDNER,
Pl'ff's Att'ys.

(Indorsement on cover:) No. 429. The National Bank of Commerce of Boston, State of Massachusetts, plaintiff in error, vs. The Merchants' National Bank of Memphis, State of Tennessee. Massachusetts C. C. U. S. Filed 26th April, 1873.

Supreme Court of the United States.

THE NATIONAL BANK OF COMMERCE OF BOSTON,

Plaintiff in Error,

vs.

THE MERCHANTS' NATIONAL BANK OF MEMPHIS.

BRIEF FOR PLAINTIFF IN ERROR.

Supreme Court of the United States.

THE NATIONAL BANK OF COMMERCE OF BOSTON,
PLAINTIFF IN ERROR,

vs.

THE MERCHANTS' NATIONAL BANK OF MEMPHIS.

BRIEF FOR PLAINTIFF IN ERROR.

STATEMENT OF CASE.

THIS is an action brought against the plaintiff in error for alleged negligence in surrendering three railroad receipts or bills of lading attached to three drafts: two on thirty days, and one a sight-draft, which were sent to them for collection by the Metropolitan National Bank of New York, and which railroad receipts, or bills of lading, the plaintiff in error surrendered to the drawees named in the drafts upon their acceptance of the drafts. These drafts were discounted by the defendant in error at Memphis before acceptance; and at the time of discount, the railroad receipts were attached to the drafts, and delivered to the defendant in error, and were forwarded to the Metropolitan Bank in New York for collection. The drafts were drawn against the cotton mentioned in the railroad receipts attached to them, *and the jury found specially that it was agreed between the drawers and drawees of the drafts that the railroad receipts or bills of lading should be surrendered on acceptance of the drafts.* The plaintiff in error had no information that the drafts had ever been negotiated by the drawers, and *had no instructions whether to surrender*

the railroad receipts or bills of lading upon acceptance or to hold them until payment of the drafts. The plaintiff in error had received through the same bank in New York drafts to a very large amount on the same parties, accompanied by bills of lading which they had always surrendered on acceptance, except *in one instance only*, several months prior to the drafts in this case, when they *had received special instructions to hold* the receipt or bill of lading until the draft was paid; with which instructions they complied.

The case was tried before a jury, and a verdict rendered for the plaintiff in the Court below.

The plaintiff in error submits that the Court below erred in not giving the instruction asked for at the close of the plaintiff's case: "That it was the duty of the defendants to surrender the bills of lading upon the acceptance of the drafts, and that they were not bound to hold the same for payment."

Record, p. 49.

And further in not giving the following instruction asked for at the conclusion of the evidence.

"If the jury shall be satisfied that, by agreement between Green & Travis and the drawers of the drafts, the bills attached were to be surrendered on the acceptance of the drafts, the Bank of Memphis is chargeable with notice of such agreement."

Record, p. 59.

And further in the following instruction to the jury: "In the absence of any consent of the owner of the bill of exchange, other than such as may be implied from the mere fact of sending for collection a bill of exchange, the bank so receiving the two papers for collection would not be authorized to separate the bill of lading from the bill of exchange, and surrender it before the bill of exchange was paid."

Record, p. 59.

And further in the following instruction to the jury: "When he delivers the bill of lading, which is the symbol of the prop-

erty to the bank, the effect is the same as if he delivered the property itself. The bank pays the price and takes the delivery of the property, and holds it in pledge. Upon such a state of facts the parties ordering the cotton had no title which they could set up against the title of the bank. The order to buy gave Green and Travis no title to the cotton. The bank had a right to hold the bill of lading for the payment of the price, and to instruct the collecting bank to hold the bills of lading until payment of the drafts."

Record, p. 60.

And further in the following instruction to the jury: "But if the Metropolitan Bank merely sent to the defendant bank the bills of exchange, with the bills of lading attached 'for collection,' with no other instructions, either express, or implied from the past relations of the parties, they would not be so justified in surrendering on acceptance only."

Record, p. 60.

I. Conceding that railroad receipts are to be held to be negotiable, like bills of lading, and their indorsement and delivery pass the title to the property mentioned in them, it is submitted, that *in the absence of any instructions* the plaintiffs in error were warranted in their inference that the bills of lading were annexed to the drafts to secure their acceptance, and were to be surrendered on acceptance, and, therefore, they are not liable to an action for such surrender.

Lanfear *vs.* Blossman, 1 La. Ann. Rep. 148. (See the able opinion in same case in court below, reported vol. xiv., Hunt's Merchants Magazine, 1846,) page 264.

Coventry *vs.* Gladstone, Law. Rep. 4 Eq. Cases, 493.

Gurney *vs.* Behrend, 3 Ellis & Blk., 622.

Shepherd *vs.* Harrison, L. R. 4 Q. B. 196.

S. C. L. R. 5 H. L. 116.

Schuschardt *vs.* Hall, 36 Maryland, 590.

Bryan *vs.* Nix, 4 M. & W. 775.

Marine Bank of Chicago *vs.* Wright *et al.* 48 N.Y., p. 1.

Says Wood, V.C., in Coventry *vs.* Gladstone, Law Rep. 4 Eq. Cas. page 503, —

"The only question is, whether, by the course of trade, any such custom as that stated by the defendants, that it is the practice not to deliver up the bill of lading to the intended vendee until he shall have taken up his acceptances on account thereof, has been established; so far, however, from that being the usual course, it is expressly referred to by Crompton, J., as being an exceptional course, only adopted in times of suspicion and peril."

Says Cockburn, C.J., in Shepherd *vs.* Harrison, L. R. 4 Q. B. page 203, —

"But, on the other hand, the authorities are equally good to my mind, to show where the consignor sends the bill of lading to an agent in this country, to be by him handed over to the consignees, and accompanies that with bills of exchange, to be accepted by the consignee, that that indicates a different intention; viz., that the handing over the bill of lading and the acceptance of the bill, or bills of exchange, should be concurrent parts of one and the same transaction."

And again, in Coventry *vs.* Gladstone, above cited, Wood, V.C., says page 503, —

"The parties shipping the goods from Calcutta, in the absence of any stipulation to the contrary, did give their agents in England full authority, if they saw fit, to pass over the bill of lading to the person who had accepted the bill of exchange."

Says Lord Cairns, in Shepherd *vs.* Harrison, L. R. 5 H. of L., 133, —

"If they accept the cargo and bill of lading and accept the bill of exchange drawn against the cargo, the object of those who shipped the goods is obtained. They have got the bill of exchange in return for the cargo; they discount or use it as they think proper; and they are virtually paid for the goods."

In Schuschardt *et al. vs.* Hall, above cited, Bartol, C.J., says, —

"Under their contract with the defendants, the latter were

authorized to draw only against the cargo of wheat to be shipped by the "Ocean Belle"; and they (the drawees) were, therefore, not bound to accept without the delivery to them of the bill of lading."

Says Eustic, C. J., in Lanfear *vs.* Blossman, above cited, page 156, —

"In either case, how can the drawee of the bill be required to give out his name, unconditionally, for the price before the property is delivered to him, or how can the holder of the bill exact from the acceptor his obligation for the price and retain the thing for which the obligation is given? To say nothing of the unreasonableness of such a supposition, the incompatibility of such a state of things with commercial transactions among persons of credit is so palpable as to render its existence problematical."

And, at page 160, he says,—

"We can come to no other conclusion than that the acceptance was to be the consideration for the consignment which the holders of the bill had no right to withhold when they exacted the acceptance, and there is nothing in the evidence which authorized such a proceeding; that the drawees were not bound to accept the bill except on delivery of the bill of lading; and that in refusing to accept as they did, there has been no default on their part, and the bill was therefore protested without cause, and the drawer is discharged."

The very question raised in this case, as to the duty of a collecting bank to which time drafts with bills of lading attached were sent for collection, has arisen in the courts of Canada, and been decided in accordance with the position of the plaintiff in error.

Wisconsin Bank *vs.* Bank of British North America.
21 Upper Canada Queen's Bench Reports, 284.
Same case on appeal.
2 Upper Canada Error and Appeal Reports, 282.
Clark *vs.* Bank of Montreal.
13 Grant's Chancery Reports (Upper Canada), 211.
Goodenough *vs.* The City Bank.
10 Upper Canada Common Pleas Reports, 51.

48, NY - p 3 —

It is submitted that great commercial embarrassment and confusion would result if such receipts were to be held for payment on time drafts.

Why was the merchandise forwarded so soon, if not to be delivered up upon acceptance of the drafts? Why send it thirty days before it could possibly be wanted? What did the holders of the drafts expect would be done with the merchandise upon its arrival, unless the purchasers of the property were to have it upon acceptance of the drafts? Who else would look after it, see to its storage, custody, and insurance in the interval, between acceptance and payment of the drafts? If the cotton was to be held for payment, its sale for the time being would be interdicted. The purchaser would be prevented from dealing with it. It would not be within the scope of the duties of the collecting bank to look after it, and the vendors of the merchandise would be at a distance, and the depots would be filled. To dealers in merchandise, subject to great fluctuations of value, the delay would be ruinous.

Again, the *consideration* of the purchase was the *accepted draft;* and the purchaser, having given his acceptance, has a right to the consideration for which he gave it, to wit, the property and the title.

It was a purchase on credit, and interest was paid therefor. No merchant would issue his acceptances without securing the consideration for which they were given. Merchants do not accept against nothing.

If the purchaser is not to have his goods upon acceptance why does he give his acceptances?

To say nothing, therefore, of the agreement found by the fury between the drawers and drawees, the entire weight of authority, as well as the reason of the thing, show that Green & Travis, the drawees, were not bound to accept these drafts, except upon the delivery of the bills of lading.

The very fact, therefore, that the defendant in error sent forward the drafts *for acceptance*, with the bills of lading attached, warranted the plaintiffs in error, in the absence of

any instructions, in doing what was essential to obtain acceptance of the drafts.

II. One of the drafts in question is a sight draft, but as it is entitled, by the laws of Massachusetts, to three days grace, it is still a time draft; and the same principle is applicable to it as to the two thirty-day drafts. The acceptors have the same right to the surrender of the bill of lading upon its acceptance, and can no more be called upon to accept without surrender than in the case of the thirty-day drafts.

Gen. Stat. of Mass. Chap. 53, §§ 15 and 16.

§ 15. "On bills of exchange payable within this state at sight, or at a future day certain, and on promissory negotiable notes, orders, and drafts, payable within this state at a future day certain, in which there is not an express stipulation to the contrary, grace shall be allowed, except as provided in the following section, in like manner as it is allowed by the custom of merchants on foreign bills of exchange, payable at the expiration of a certain period after date, or sight.

§ 16. "The provisions of the preceding section shall not extend to any bill of exchange, note, or draft, payable on demand."

III. The Jury found, specially, that it was agreed between Green & Travis and the drawers of the drafts, that the bills of lading were to be surrendered on acceptance. It is true that the jury found that this special agreement was not communicated to the defendant in error by the drawers when the drafts were negotiated. But the defendant in error had knowledge of that which was equivalent, inasmuch as they knew that the drafts were drawn against the cotton for which the bills of lading were issued, and that they were on time. The very fact *that those bills of lading were attached to those drafts* was notice to that effect, — that the drawers had no funds or property in the hands of the drawees against which the drafts were drawn, and that the only consideration for the acceptance was the cotton mentioned in those bills of

lading, — they therefore had no reason whatever to expect that the drafts would be accepted, unless the drawees were to receive the consideration for the acceptance. (Schuchardt *vs.* Hall, 36 Maryland, 590.) Therefore, unless they gave instructions to the contrary, the plaintiffs in error were not only warranted, but it was their duty, to do what was necessary to secure acceptance of the drafts, and this was to surrender the bills of lading.

IV. No agreement was made by the drawers with the bank at Memphis (as in Schuchardt *v.* Hall *et al.*, *supra*), that the bills of lading were to be held for payment of the drafts.

There was nothing in the arrangement between the drawers and the bank at Memphis, showing any intention or purpose of the drawers to violate their agreement with Green & Travis for surrender of the bills of lading upon acceptance.

The bills of lading were delivered to the bank without any thing being said upon the subject (Deposition of Mulford, Record p. 23, direct exam.); and, without such authority, the bank had no more right to hold the bills of lading for payment than the drawers had, and therefore could not expect their agent would hold them unless so instructed.

V. Mulford & Anderson had no vendor's lien on this cotton, except to secure acceptance of the drafts, for two reasons: first, by reason of their special agreement, as found by the jury; second, by reason of their drawing drafts on time for the price; for a vendor's lien is only consistent with a sale for cash.

And the defendants in error, if they had no notice of the special agreement, they, when they took these bills of lading attached to these drafts, thereby had notice that the consideration of the drawees' acceptance of the drafts was the purchase of the cotton mentioned in the bills of lading, and the drafts being on time, that gave them notice that it was a purchase on time, and, therefore, there was a waiver of the vendor's lien (as in case of a sale on credit), except to secure acceptance of the drafts.

VI. The Court ruled, that "the bank had a right to hold the bills of lading for the payment of the price, and *to instruct the collecting* bank to hold the bills of lading until *payment of the drafts.*" (Record, p. 60, fol. 151.)

But the Court ruled further, and inconsistently, that "if the Metropolitan Bank merely sent to the defendant bank the bills of exchange, with the bills of lading attached for collection, *with no other instructions,* either express or implied, from the past relations of the parties they would not be justified in surrendering on acceptance only." (Record, p. 60, fol. 153.)

That is to say, the Court ruled at one time that the Bank of Memphis had a right to instruct their agents to hold the bills of lading for payment of the drafts; and, at another, that *merely sending them forward* for collection was equivalent to an *actual* instruction to hold them for payment. These instructions were inconsistent. We might safely concede that the bank at Memphis had a right to instruct their agent, the bank at Boston, to hold the bills of lading until payment; but we insist that it was their duty so to instruct, if they wished the bills of lading so held, and, if they gave no instructions, the agent is not liable for surrendering.

When the defendant in error forwarded the drafts and the bills of lading attached, whoever received the instruments in that condition had notice that there was some connection between them, and that was, that the drafts were drawn against the bills of lading; and if so, that the drawees on acceptance had a right to the bills of lading.

If the defendant in error took, and sought to hold, the cotton in pledge for money loaned to the drawers of the drafts, independent of all agreements with the drawees of the drafts, and of the rights of the drawees, according to the ordinary legal import of the instruments, then they should have so instructed their correspondents.

It must be borne in mind, that there was no evidence that either the Metropolitan Bank in New York or the plaintiff in error had any knowledge or information that the drafts had been discounted at all. The plaintiff in error merely received by mail the drafts and bills of lading, with the indorsement for collection.

There was nothing on the face of the instruments, there was nothing in the letter accompanying them, to give the plaintiff in error any knowledge or information that the drafts were not the property of Mulford & Anderson, the drawers.

If they were, then it was the duty of the plaintiff in error, as the agents in such case of Mulford & Anderson, to surrender the bills of lading on acceptance; for such was the agreement between them and the drawees.

VII. The Court below seems to have assumed that the plaintiff in error had full knowledge of the actual relation of the defendant in error to the drafts and bills of lading, and the instructions to the jury throughout proceed on that assumption; and, therefore, whatever may have been the agreement between the drawers and drawees of the drafts, as to the bills of lading, that such agreement had no bearing or effect on the duties of the plaintiffs in error, or their liabilities to their unknown principal.

For all that appeared, the principals, for whom the plaintiff in error were acting, were the drawers of the drafts, and they did precisely what was their duty in such case. If the defendant in error, when sending the drafts and bills of lading, intended any action different from what would be had in such case, they should have so instructed the agent.

VIII. The plaintiff in error was bound only to reasonable care and diligence in the discharge of its duties as agent.

Warren Bank *vs.* Suffolk Bank, 10 Cush. 582.

A reasonable interpretation is to be put upon the language and conduct of the parties. The principal, failing to give definite instructions to the agent, ought not to take advantage of their uncertainty.

If it was uncertain, by usage or practice, or by the terms of the instructions, or by the absence of instructions, what was to be done, and the defendant in error left it doubtful, the agent should not suffer for any loss so occasioned.

Story on Agency, § 74–76, 199.
Circette *vs.* Keith, 4 Wash. C. C. 551.

Vianna *vs.* Barclay, 3 Cowen, 281.
Macbeath *vs.* Haldimand, 1 T. R. 172.
Morrill *vs.* Frith, 3 M. & W. 402.
Lucas *vs.* Growning, 7 Taunt, 164.

Ireland *vs.* Livingston, Law Rep. 5 H. L., page 395. Lord Chelmsford says, at page 411, —

"Now it appears to me that if a principal gives an order in such uncertain terms as to be susceptible of two different meanings, and the agent bona fide accepts one of them and acts upon it, it is not competent to the principal to repudiate the act as unauthorized, because he meant the order to be read in the other sense of which it is equally capable. It is a fair answer to such an attempt to disown the agent's authority to tell the principal that the departure from his intention was occasioned by his own fault, and that he should have given his order in clear and unambiguous terms."

To apply this to the present case: Time-drafts came to the collecting bank with bills of lading attached. They were sent without any specific directions whether the bills of lading should be surrendered on acceptance, or held for payment. The collecting bank *must* present the drafts for acceptance. Was there here such a clear indication and direction as to the intention of the bank at Memphis of what should be done by the agent, that he should be held to know exactly what that intention was? Was the agent called upon to determine with certainty, under such a heavy penalty, and at once, what is now the subject of so much debate?

IX. It is perfectly settled, that in case of bills of lading, a party taking them takes only such title as the indorser had at the time of indorsement and delivery to confer. Suit can only be brought in the name of the indorser. They are only *quasi* negotiable.

Mangles *vs.* Dixon, 3 H. L. Cases, 702.
Smith on Mercantile Law, 300, 301.
Blanchard *vs.* Page, 8 Gray, 281–297.
1 Parsons on Shipping, 193.

By a recent Statute in England, 18 and 19 Vict. ch. 111, bills of lading are suable in the name of the Assignee.

It is found in this case that Mulford & Anderson agreed with Green & Travis to purchase for them cotton in Memphis, and ship to them, drawing at the time of shipment for the purchase money, and that the bills of lading, or, in other words, the cotton should be delivered on acceptance of the drafts. In pursuance of that agreement this cotton was bought and shipped, and these drafts drawn, and the drafts discounted by the defendant in error, and the bills of lading indorsed and delivered to them with the drafts. Conceding it to be true, that Mulford & Anderson, after purchasing the cotton, could have repudiated their agreement with Green & Travis and sold the cotton to a third person, and that Green & Travis had no title to the cotton which they could have set up against such third person; and so the defendant in error, having discounted the drafts, and taken the bills of lading attached thereto, could have severed them, and sold the cotton to a third person, and Green & Travis had no title to the cotton which they could set up against such person. Still the defendant in error attempted no such thing; they took the drafts and bills of lading and sent them forward to be presented to Green & Travis, precisely as Mulford & Anderson would have done had no negotiation or discount been made.

So far as any notice or directions given by them to the plaintiff in error, or any one else, they adopted whatever agreement had been made by the original parties. If Mulford & Anderson had not obtained discount of the drafts, and had sent them forward, the bills of lading would properly have been surrendered in conformity with their agreement, on acceptance of the drafts.

The learned judge, in the court below, ruled correctly that the plaintiff in error was bound, if it consented to act as agent for collection of the drafts, to conform to the directions of the principal (Record, page 60, fol. 15); but the difficulty is that the principal gave no directions, and hence the error in the instruction, that if the bills of exchange, with the bills of lading attached, were sent for collection with no instructions, they would not be justified in surrendering the bills of lading on acceptance only.

If the defendant in error intended to change the terms of

the agreement between the drawers and drawees, or if they intended to act independently of any agreement, they should have spoken in distinct language, and their agent should not suffer from their own neglect to give definite and clear instructions.

It is no answer to say that the agreement of the drawers and drawees of the drafts was not communicated to them. They had notice from the attachment of the drafts to the bills of lading that there was some agreement, and *quoad* the plaintiff in error, their agent, they were held to know the agreement.

X. Mulford & Anderson purchased this cotton at Memphis, for Green & Travis, and, as their agents, for a commission, with an agreement that the cotton should be shipped to them at Boston, and paid for by time-drafts. Upon such shipment, it is submitted that the cotton became the property of Green & Travis, and at their risk subject to the right of *stoppage in transitu*, and subject to the right of having the drafts accepted on delivery of the bills of lading. The delivery of the bills of lading to the bank at Memphis gave the bank no other right than Mulford & Anderson had, to wit, a right of *stoppage in transitu*, and a right to the acceptance of the drafts before surrender of the bills of lading. If the cotton had been lost in transit, it is submitted that the loss would have fallen on Green & Travis. It is therefore not true, as we have conceded, that the bank at Memphis, taking the bills of lading under the circumstances of this case, had a right to sever them from the drafts, and sell the cotton to a third person. Green & Travis had a right to the bills of lading on acceptance of the drafts, and it was the duty of the bank at Boston to surrender them on such acceptance.

XI. It is a significant fact, that in one instance only specific instructions were given to retain the bill of lading until payment, thus demonstrating that the bank in Memphis recognized their obligation to give orders to their agent when they wished bills of lading held for payment.

Record, page 50, fol. 120; Record, page 57, fol. 141; and Record, page 58, fol. 145.

There are several recent cases in Mass. Reports involving the rights of holders of drafts with railroad receipts attached, but in no one of them was involved the question raised in this case, or having any bearing upon it.

In First National Bank of Green Bay *vs.* Dearborn, 115 Mass., 219, a draft was drawn with railroad receipt attached and discounted, and *acceptance refused.* Held that title remained in bank discounting draft, as against attaching creditor.

In Stolluwerk *vs.* Thatcher, 115 Mass., 224, it was held that a special agent, authorized to deliver bill of lading *only upon payment* of the bill of exchange drawn against the goods and attached to the bill of lading, cannot bind his principal by a delivery made without such payment.

In First National Bank of Chicago *vs.* Bayley, 115 Mass., 228, it was held that as the drawees refused acceptance, the title did not pass, but remained in the bank discounting drafts with railroad receipts attached.

In Newcomb *vs.* Lowell Railroad, 115 Mass., 230, and Alderman *vs.* Eastern Railroad, 115 Mass., 233, the same point was decided. In both cases instructions were given to the collecting bank to hold bill of lading *till payment of the draft.*

In Whitney *vs.* Beckford, 105 Mass., 267: Drafts were accepted and bill of lading delivered up. Held that drawee took title.

In Seymour *vs.* Newton, 105 Mass., 272: Drafts were accepted, but acceptor failed before delivery of goods. Held, there was a right of stoppage *in transitu.*

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